UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re:	**Chapter 11**
	Case No. 12-51502-659
PATRIOT COAL CORPORATION, *et al.*,	**(Jointly Administered)**
Debtors.	**Objection Deadline:** **To Be Determined By the Court**
	Hearing Date: **To Be Determiend By the Court**[1]
	Hearing Location: **Courtroom 7 North**

MOTION TO INTERVENE
BY THE UNITED MINE WORKERS OF AMERICA 1974 PENSION TRUST
AND THE UNITED MINE WORKERS OF AMERICA 1993 BENEFIT PLAN AND
MOTION FOR EMERGENCY HEARING THEREON

The United Mine Workers of America 1974 Pension Trust ("1974 Plan") and the United Mine Workers of America 1993 Benefit Plan ("1993 Plan"), (collectively, the "UMWA Plans" or "Plans"), by and through their undersigned counsel, submit this Motion to Intervene ("Motion") pursuant to 11 U.S.C. §§ 1109(b) and 1113(d) or, in the alternative, Fed. R. Bankr. P. 2018. The UMWA Plans seek to intervene in this bankruptcy case to participate in the contested matter associated with the *Motion to Reject Collective Bargaining Agreements and to Modify Retiree Benefits Pursuant to 11 U.S.C. §§ 1113, 1114* ("1113/1114 Motion") [ECF No. 3214].[2] The UMWA Plans further move for their Motion to Intervene to be heard on an emergency basis

[1] Upon consultation with the Deputy Clerk of the Court, counsel for the UMWA Plans were directed to file this motion, with the Court to determine the scheduling the expedited hearing to be held on the motion as well as the deadline for the filing of objections to the same.

[2] Contrary to Debtors' letter to the Court dated March 28, 2013, the UMWA 1992 Benefit Plan and the UMWA Combined Fund do not intend to intervene in this case. Although the UMWA Retiree Bonus Account Plan intends to object to the 1113/1114 Motion, it does not seek to intervene in this contested matter.

in advance of the hearing on the 1113/1114 Motion that is scheduled to commence on April 29, 2013. *See* L.R. 9013-2(A).

On March 19, 2013, the Court held a meeting in Chambers with counsel for Patriot Coal Corporation and its debtor-in-possession subsidiaries (collectively, "Patriot" or "Debtors"), the United Mine Workers of America ("UMWA"), and various other interested parties, including the UMWA Plans, on the scheduling of the proceedings related to Debtors' 1113/1114 Motion. At this meeting, Debtors acknowledged that parties other than the UMWA would participate in the 1113/1114 Motion proceedings. Indeed, these other parties made clear during that Chambers conference that they intended to call witnesses to testify on their behalf.[3]

On March 28, 2013, the Debtors wrote to this Court, requesting that the Court schedule a teleconference to regarding third-party participation in the hearing on the 1113/1114 Motion (the "Letter"), asserting, among other things, that no parties other than the Debtors and UMWA should be permitted to participate pre-hearing discovery or the hearing on the 1113/1114 Motion. Because the Plans are interested parties in this contested matter, the Plans seek leave to intervene. As evidenced by their Letter, Debtors now seek to impose extreme limitations on the rights of interested parties, including the UMWA Plans, to participate in the 1113/1114 Motion proceedings.[4] Accordingly, the UMWA Plans have little choice but to file their Motion to Intervene and to seek for that motion to be heard on an emergency basis.

[3] Notably, the Funds actively participated in the AIP/CERP proceedings, including being involved in the pre-hearing discovery process, submitting papers in opposition to the AIP/CERP Motion and examining witnesses during the hearing itself. Despite the Debtors' assertions to the contrary, and as noted by this Court during the Chambers conference on March 19, the Plans cooperated with the Debtors and the UMWA to streamline the proceedings and avoid duplication.

[4] The UMWA Funds first became aware of Debtors' intention to substantially restrict their participation in these proceedings yesterday, on March 28, 2013. Until this time, the UMWA Funds were included in the discussions among counsel regarding the hearing and contributed to the setting of the deadlines and procedures agreed among counsel for the hearing.

Debtors made clear that they object to, and seek to significantly curtail the Funds' participation in pre-hearing discovery and at the hearing. *See* Letter. In light of Debtors' objection and in order for the Plans to properly participate in the 1113/1114 Motion proceedings, they seek to intervene. The Plans request that their Motion to Intervene be heard as soon as possible in order for Debtors to actively participate in the 1113/1114 discovery and hearing.

In support of these Motions, the Plans respectfully state as follows:

I. FACTUAL BACKGROUND

A. The Plans

1. As set forth more fully below, the Plans are multiemployer pension and retiree health benefit plans to which Debtors are obligated to contribute pursuant to collective bargaining agreements ("CBAs"). *See* Decl. of Dale Stover ("Stover Decl.") (attached hereto as Exhibit A) ¶ 2. Unlike the circumstances of other bankruptcy cases involving collectively bargained single employer employee benefit plans, in this case the employee benefit plans are multiemployer plans, and the proposed relief under Section 1113 would affect participants and beneficiaries who are employed by or retired from many other employers, imposing burdens on numerous other employers as well. The proposed relief, therefore, could not be imposed without affecting rights and interests that the Plans have a duty to protect.

2. The 1974 Plan was established by an agreement between the United Mine Workers of America ("UMWA") and the Bituminous Coal Operators' Association, Inc. ("BCOA") entitled the National Bituminous Coal Wage Agreement ("NBCWA") of 1974. *See id.* ¶ 3. It is a successor to the UMWA Welfare and Retirement Fund of 1950, which grew out of the 1946 Krug-Lewis Agreement between the government of the United States and the UMWA that first established the bituminous coal industry's health and retirement system. *Id.* The 1974 Plan provides pension benefits to more than 93,000 eligible participants and beneficiaries who

are retired or disabled hourly coal production workers represented by the UMWA and their eligible surviving spouses. *Id.* ¶ 4. This population of participants and beneficiaries includes individuals eligible under the 1974 Plan and the former UMWA 1950 Pension Plan, which merged into the 1974 Plan effective June 30, 2007. *Id*. The 1974 Pension Plan is also a member of the Official Committee of Unsecured Creditors ("UCC"). In connection with this Motion, the 1974 Pension Plan is acting on its own behalf and not as a representative of the UCC.

3. Contributions payable to the 1974 Plan are governed by what is referred to as the "Evergreen Clause," which was first added to the 1974 Plan's governing documents in 1978. Stover Decl. ¶ 5. The Evergreen Clause has been updated in each 1974 Trust document subsequent to 1978 to make reference to the current NBCWA and successor agreements. *Id.* The Trust document included the updated Evergreen Clause:

> Any Employer who employed any participant eligible for coverage under, or who received or receives benefits under the 1974 Pension, or any Employer who was or is required to make, or who has made or makes contributions to the 1974 Pension Plan and Trust, is obligated and required to comply with the terms and conditions of the 1974 Pension Plan and Trust, as amended from time to time, including, but not limited to, making contributions required under the National Bituminous Coal Wage Agreement of 1978, as amended from time to time, and any successor agreements thereto, including, but not limited to, the National Bituminous Coal Wage Agreement of 2011.

See, e.g., 2013 Trust Document, art. 10 ¶ 2 (attached hereto as Exhibit B). For over twenty-five years, the 1974 Plan has engaged in litigation enforcing the Evergreen Clause to create and maintain uniform contribution requirements for all employers participating in the 1974 Plan in order to provide retirement benefits to their employees. Stover Decl. ¶ 5.

4. Among the first of those suits was filed in 1988 when the Pittston Company ("Pittston") and certain other employers stopped making contributions to the 1974 Plan and to

other UMWA benefit trusts ("the Trusts"). *See In re UMWA Employee Benefit Plans Litigation*, 782 F. Supp. 658, 659-60 & nn.1-4 (D. D.C. 1992) (listing some of the cases). After those cases were filed, Pittston and other employers entered into collective bargaining agreements with the UMWA purporting to terminate the employers' obligations to contribute to the Trusts. *See id.* at 662-63. The Trusts – including the 1974 Plan – sought to enforce those employers' pre-existing Evergreen Clause obligations to continue making contributions to the Trusts at the rates required under the 1988 NBCWA and any successor agreements thereto, even though those employers' individual collective bargaining agreements provided for the termination of such a contribution obligation. The district court granted summary judgment to the Trusts based on "voluminous evidence of the negotiating history of the evergreen clause." *Id.* at 667. The court held that the clause

> was intended to ensure that all participating employers would contribute equally to the Trusts and would not be permitted to withdraw from participation and leave the burden for funding the pensions and health benefits of retired miners to the remaining participating employers.

Id.

5. On appeal by the employers, the Court of Appeals for the D.C. Circuit affirmed summary judgment. *United Mine Workers 1974 Pension Plan v. Pittston Co.*, 984 F.2d 469 (D.C. Cir. 1993). The Court of Appeals held that the Evergreen Clause constituted an agreement by each employer that had incorporated the Plan document in a collective bargaining agreement "to make continuing contributions to the trusts; and this obligation included an agreement to make contributions at rates specified in subsequent NBCWAs, without regard to whether the employer was still a party to the subsequent agreements." *Id.* at 474. The court further held:

> The language of the relevant provisions in the applicable trust and collective bargaining agreements unambiguously obliges signatory

> employers to contribute to the trusts at the rates specified in the current NBCWA, irrespective of the employer's failure to sign that NBCWA.

Id. at 473. In addition, the court held that employers that have incorporated the Evergreen Clause cannot modify those contribution obligations through "non-NBCWA labor agreements." *Id.* at 475.

6. The 1993 Plan was established by the NBCWA of 1993. Stover Decl. ¶ 8. The 1993 Plan provides health benefits to approximately 11,000 retired coal workers and their dependants. *Id*. In particular, the 1993 Plan covers retirees who are considered "orphans" because their last signatory employer is no longer in business and they are not otherwise covered and receiving benefits under the Coal Industry Retiree Health Benefit Act of 1992, 28 U.S.C. § 9701, *et seq*. *Id.* ¶ 9. By definition, these are retirees who last worked for employers other than the Debtors in this case. Benefits payable to approximately 3,000 beneficiaries of the 1993 Plan are funded solely by contributions from companies such as Patriot, that made a contractual promise to pay a fixed hourly contribution to fund the necessary health benefits for these orphan retirees through the term of the most recent NBCWA, known as the 2011 NBCWA, which extends until December 31, 2016. *Id.* ¶¶ 10, 11.

B. Debtors' Contributions to the Plans Are Critically Important

7. Debtors are one of the largest employers of miners represented by the UMWA. *See* Decl. of Mark N. Schroeder ("Schroeder Decl.") [ECF No. 4] ¶ 34. Debtors and their predecessors have been bound to every NBCWA since the first one in the 1950s as well as by its predecessor agreements.

8. The 2011 NBCWA sets forth the contribution obligations of contributing employers to the UMWA Plans, benefit levels owed to the Plans' beneficiaries and participants, and eligibility requirements, among other substantive terms. *See* Stover Decl. ¶ 11.

9. Debtors' current annual contribution to the 1974 Plan is approximately $20.9 million. *Id.* ¶ 12. The Debtors' projected contributions from now through the expiration of the 2011 NBCWA total $73.7 million. *Id.* During 2012, Debtors contributed approximately 17.2% of all of the contributions received by the 1974 Pension Plan from all employers. *Id.* ¶ 13. Only one controlled group of employer companies contributed significantly more than Debtors contributed. *Id.*

10. Debtors' current annual contribution to the 1993 Plan is approximately $3.7 million. *Id.* ¶ 14.

11. The impact of Debtors' contributions to the Plans, and the impact that would result from termination of those contributions, is tremendous. Debtors' proposed cessation of contributions will cause the Plans significant funding losses. *Id.* ¶ 15.

12. This, in turn, may affect the benefit levels of future retirees and, if the loss of funding causes the 1974 Plan to become reorganized or insolvent, would reduce the pension benefits provided to the 1974 Plan's over 93,000 eligible beneficiaries. *Id.*

13. This impact on the UMWA Plans' ability to continue providing benefits to their many thousand beneficiaries is already well-documented on this Court's docket. Many UMWA members, fearful of losing their promised life-long retirement benefits, have sent letters to the Court urging for protection of their benefits. *See, e.g.*, Declaration of Robert J. Scaramozzino [ECF No. 1466] (discussing letters submitted to the Court by UMWA members).

14. The 1974 Plan would suffer a severe reduction in funding as a result of Debtors' proposed modifications. Under Section 305(b)(3) of ERISA, the 1974 Plan's enrolled actuary certified the Plan to be in Seriously Endangered Status for the plan years beginning July 1, 2011 and July 1, 2012. *See* Stover Decl. ¶ 6. Debtors' withdrawal of funding and failure to pay their

liability would exacerbate this condition and the share of the Plan's unfunded liabilities attributable to each of the remaining employers would be proportionally increased. *See id.* ¶ 17. This loss of funding presents a risk to the ultimate solvency of the 1974 Plan, and no party other than the 1974 Plan will adequately represent the interests of the Plan's participants and beneficiaries in maintaining an adequate funding stream in the Section 1113 proceeding.

15. The Evergreen Clause further underscores the 1974 Plan's interest in the Section 1113 Proceeding. Unlike the typical collectively bargained contribution, the UMWA and Patriot do not have the authority to negotiate a modification or termination of Patriot's obligation to contribute to the 1974 Plan because of the Evergreen Clause. *See* Stover Decl. ¶ 5. The obligation and authority to enforce that clause lies exclusively with the 1974 Plan. Consequently, no other party can adequately represent the 1974 Plan's interests in this proceeding. Therefore, the 1974 Plan's participation is not only permissible, but necessary, in these proceedings.

16. Additionally, if Debtors were to eliminate all contributions to the 1974 Plan, Debtors would be liable for approximately $959 million in withdrawal liability, representing Debtors' proportionate share of unfunded vested pension liabilities. *See* 29 U.S.C. § 1381(a)-(b)(1) (Section 4201 of the Employee Retirement Income Security Act of 1974, as amended ("ERISA")); Stover Decl. ¶ 16. This will give the 1974 Plan the largest claim in the bankruptcy case. Furthermore, this $959 million liability would be joint and several among each of the ninety-nine Debtors. As the 1974 Plan has previously advised the Debtors, as well as the Official Committee of Unsecured Creditors, any amount payable to the 1974 Plan with respect to the Debtors' withdrawal liability obligations is due in a lump sum with respect to all Debtors, and cannot be paid in installments, nor reduced to reflect the discounted present value of such

installments. *See* Letter Dated March 14, 2013 (provided to Debtors by e-mail on March 15, 2013) (attached hereto as Exhibit C).

17. Debtors seek to treat this withdrawal liability claim as a general unsecured claim in their Chapter 11 cases. Memorandum of Law in Support of Debtor's 1113/1114 Motion [ECF No. 3219 at 47]. Thus, the 1974 Plan's claim may yield only cents on the dollar or even no recovery at all, which is insufficient to fully compensate the 1974 Plan's participants and beneficiaries for the loss of Patriot's contributions.

18. The 1993 Plan will also suffer material harm under Debtors' 1113/1114 Motion. This harm arises in two ways. First, benefits payable to approximately 3,000 of the 1993 Plan's orphan beneficiaries are funded solely by fixed contributions from contributing employers. Currently, Patriot is responsible for approximately 16.2% of the contributions paid to the 1993 Plan. Stover Decl. ¶ 14. If these contributions cease, current projections show that the 1993 Plan will not have sufficient assets to provide benefits to these orphan beneficiaries, which will result in the reduction or termination of their benefits. *Id.* ¶ 15, 18. These orphan beneficiaries have no representation in this proceeding other than by the 1993 Plan itself.

19. Second, if Patriot terminates healthcare obligations to its non-Coal Act retirees (which it effectively seeks to do through its inadequately funded VEBA proposal), those retirees will seek benefits from the 1993 Plan. Although their eligibility is not assured, as no determination of eligibility has yet been made by the 1993 Plan's Board of Trustees, it is possible that Patriot's retirees may be eligible for benefits if the 1113/1114 Motion is granted. It is clear, however, that if Patriot's non-Coal Act retirees do become eligible for benefits from the 1993 Plan, the Plan will become instantly insolvent and benefits for the remaining 3,000 beneficiaries whose benefits are paid for out of contractual employer contributions will have to

be reduced or terminated altogether. Stover Decl. ¶ 18.

C. Debtors Threaten to Eliminate Contributions to the UMWA Plans

20. On July 9, 2012, each of the Debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code [ECF No.1].[5]

21. In support of the Chapter 11 petitions and First Day Motions, Debtors submitted the Schroeder Declaration [ECF No. 4]. In his Declaration, Mr. Schroeder stated that "Debtors have substantial and unsustainable legacy costs, primarily in the form of medical benefits and pension obligations. . . . The Debtors return to long-term viability depends on their ability to achieve savings with respect to these liabilities." *See* Schroeder Decl. ¶ 33.

22. Given the modifications to collective bargaining and pension obligations forecasted by Mr. Schroeder, the UMWA Plans promptly sought to gather more information and protect their interests. The Plans executed confidentiality agreements governing the receipt of information from Debtors, requested and obtained information from Debtors relating to their financial condition and business plan, and retained financial consultants to analyze the information.

23. In response to the Plan's requests for information, Debtors provided a copy of their proposals to the UMWA under 11 U.S.C. §§ 1113 and 1114 to modify collective bargaining and retiree benefit obligations ("1113 and 1114 Proposal"). *See* Nov. 15, 2012 Proposals, PATRIOT-LABOR-000004-41 (attached hereto as "Exhibit D").

24. The 1113 and 1114 Proposal sought a complete elimination of Debtors' contributions to the UMWA Plans,[6] among other modifications. *See* Ex. D at PATRIOT-

[5] Pursuant to an order dated July 10, 2012 [ECF No. 30], Debtors' bankruptcy cases are being jointly administered.

[6] The 1113 Proposal and 1113/1114 Motion applies to the CBAs for the following ten (10) Debtor entities, all of which are wholly owned subsidiaries of Patriot Coal Corporation: Apogee Coal Company,

LABOR-000009, -21.

25. The 1113/1114 Motion, filed on March 14, 2013 [ECF No. 3214], similarly seeks to eliminate contributions to the 1974 Plan, currently $5.50 per hour; and the 1993 Plan, currently $1.10 per hour. *See* ECF No. 3219 at 47, 49.

26. Given the tremendous financial impact of the 1113/1114 Motion, the UMWA Plans seek to intervene in the Section 1113 proceeding to protect their significant and unique interests, including the Plans' pecuniary interest in avoiding the loss of funding and the risks caused by the increased burdens on the other contributors to the 1974 Plan if Debtors fail to pay their withdrawal liability assessment in its entirety.

II. ARGUMENT

A. The UMWA Plans Have Standing to Intervene in the Section 1113 Proceedings

27. The Section 1113 modifications requested by Debtors will have a grave and significant financial impact on the UMWA Plans. The Plans, therefore, are "part[ies] in interest" in the bankruptcy case, *see* 11 U.S.C. § 1109(b), and "interested parties" with respect to the requested Section 1113 modifications, *see* 11 U.S.C. § 1113(d), and have standing to intervene in the portion of the Section 1113 proceeding addressing Debtors' request to eliminate their collective bargaining obligations to contribute to the Plans.

1. *The UMWA Plans Have Standing as "Parties in Interest" in the Bankruptcy Case.*

28. Under Section 1109(b) of the Bankruptcy Code, "[a] party in interest, including . .

LLC; Colony Bay Coal Company; Eastern Associated Coal, LLC; Gateway Eagle Coal Company, LLC; Highland Mining Company, LLC; Hobet Mining, LLC; Mountain View Coal Company, LLC; Pine Ridge Coal Company, LLC; and Rivers Edge Mining, Inc. *See* Ex. B at PATRIOT-LABOR-000004-35. A subset of five (5) of these entities have CBAs providing for contributions to the 1974 Plan: Heritage Coal Co.; Eastern Associated Coal, LLC; Apogee Coal Co., LLC; Hobet Mining, LLC; and Highland Mining Company, LLC. *See id.*; *see also* Stover Decl. ¶ 7.

. a creditor . . . may raise and may appear and be heard on any issue in a case under this chapter." 11 U.S.C. § 1109(b) (emphasis added).

29. In accordance with its plain language, which states that an affected party may be heard on "any issue" in a bankruptcy case, "Section 1109(b) must be construed broadly." *In re Citizens Loan & Thrift Co.*, 7 B.R. 88, 90 (Bankr. N.D. Iowa 1980) (citations omitted). "Courts have consistently held that 'the concept of party in interest' is an elastic and broad one designed to give the Court great latitude to insure fair representation of all constituencies impacted in any significant way by a [C]hapter 11 case." *In re First Humanics Corp.*, 124 B.R. 87, 90 (Bankr. W.D. Mo. 1991) (citations omitted).

30. Although "party in interest" is not defined in the Bankruptcy Code, courts construe it to mean "a person who holds a pecuniary interest that could be adversely affected by the outcome of the proceeding." *In re U.S. Fidelis, Inc.*, 481 B.R. 503, 515 (Bankr. E.D. Mo. 2012) (internal citation omitted); *see also In re Reserves Develop. Corp.*, 64 B.R. 694, 700 (W.D. Mo. 1986) (affirming bankruptcy court ruling that creditors had standing to enforce automatic stay because creditors "have a pecuniary interest that was adversely affected"); *In re Reserves Develop. Corp.*, 78 B.R. 951, 957 (W.D. Mo. 1986) (same).[7]

31. The Plans clearly meet this standard, as their pecuniary interests are threatened by Debtors' request for a complete termination of contributions to the Plans, which, if granted, would result in a severe loss of funds to the Plans. Stover Decl. ¶ 15.

32. With respect to the 1974 Plan, Debtors' withdrawal of contributions would trigger approximately $959 million in withdrawal liability. *See* Stover Decl. ¶ 16. This would likely

[7] Courts outside of the Eighth Circuit also apply the "pecuniary interest test" to determine who is a party in interest under Section 1109(b). *See Futuresome LLC v. Reuters Ltd.*, 312 F.3d 281, 284 (7th Cir. 2002); *Nintendo Co. v. Patten (In re Alpex Computer Corp.)*, 71 F.3d 353, 356 (10th Cir. 1995); *Yadkin Valley Bank & Trust Co. v. McGee (In re Hutchinson)*, 5 F.3d 750, 756 (4th Cir. 1993).

make the 1974 Plan the holder of the largest unsecured claim in the bankruptcy case. Furthermore, this $959 million liability would be joint and several among each of the 99 Debtors. This withdrawal would also adversely affect the pecuniary interests of the other contributing employers to the Plan, whose share of the Plan's liabilities would be proportionally increased in the event that Debtors fail to pay their liability in its entirety. *See id.* ¶ 17.

33. With respect to the 1993 Plan, Debtors' termination of contributions may result in a situation in which the Plan has more covered beneficiaries and less available funding. This would adversely affect the pecuniary interests of the 1993 Plan's other beneficiaries, whose share of the Plan's benefits would decrease. *See id.* ¶ 18. Indeed, to state this adverse effect solely as a pecuniary one is an understatement, as these beneficiaries would lose their promised health care coverage.

34. Therefore, given the tremendous financial impact of the Debtors' requested Section 1113 modifications on the Plans, the UMWA Plans have standing to intervene under Section 1109(b) on "any issue" in the bankruptcy case, including Debtors' requested Section 1113 modifications to eliminate contributions to the 1993 Plan and eliminate contributions to and fully withdraw from the 1974 Plan. *See First Ala. Bank v. Shelby Motel Group (In re Shelby Motel Group, Inc.)*, 123 B.R. 98, 101-02 (N.D. Ala. 1990) (citing *In re Marin Motor Oil, Inc.*, 689 F.2d 445 (3d Cir. 1982)) (agreeing with Third Circuit position that the Section 1109 right of intervention extends to all proceedings within the bankruptcy case); *In re Cent. Med. Ctr.*, 122 B.R. 568, 570-71 (Bankr. E.D. Mo. 1990) (permitting intervention under Section 1109 to oppose confirmation of plan under Chapter 11).

2. *The Plans Have Standing as "Interested Parties" in the Section 1113 Proceeding.*

35. In addition to standing under Section 1109(b) to intervene with respect to any

issue in the bankruptcy case generally, the UMWA Plans also have standing under Section 1113(d) to intervene in the Section 1113 proceeding in particular. Section 1113(d) provides that "[a]ll interested parties may appear and be heard at such hearing." 11 U.S.C. § 1113(d) (emphasis added).

36. Although "interested parties" in Section 1113(d) is not defined in the Bankruptcy Code, at least one court has said that it "is a shorthand reference to entities bearing characteristics similar to 'parties in interest' as that phrase is employed in [Section] 1109 of the Bankruptcy Code." *See In re Sandhurst Secs., Inc.*, 96 B.R. 451, 455 (Bankr. S.D.N.Y. 1989) (citing *Blue Chip Stamps v. Manor Drug Stores*, 421 U.S. 723, 725 (1975)). Indeed, if Congress had intended the phrase "interested parties" to have any meaning other than its usual, common sense meaning, Congress would have expressly stated as such. *Cf. FCC v. Nextwave Personal Commc'ns, Inc.*, 537 U.S. 293, 302 (2003) (stating that "where Congress has intended to provide regulatory exceptions to provisions of the Bankruptcy Code, it has done so clearly and expressly"). Congress did precisely this in other provisions of Section 1113, where it specifically stated that the Debtors must make a proposal to the "authorized representative" of the employees covered by the CBA. *See, e.g.*, 11 U.S.C. § 1113(b)(1)(A). If Congress had intended that the only "interested party" under Section 1113 were the "authorized representative," Congress would have so stated. Therefore, just as the Plans' significant financial stake in this contested matter renders them "part[ies] in interest" under Section 1109(b), the Plans are likewise "interested parties" under Section 1113(d).

37. In opposing the Plans' participation in the 1113 proceedings, Debtors rely exclusively on a Seventh Circuit decision that has not been adopted by the Eighth Circuit or any

other circuit. *See In re UAL Corp.*, 408 F.3d 847, 851 (7th Cir. 2005).[8] Even under the overly restrictive interpretation applied by the court, however, both the 1993 and 1974 Plans qualify as interested parties with standing to intervene in the Section 1113 proceeding. The court in *UAL* reasoned that, if "[l]abor and management are free to change their agreements without any complaint" by the entity claiming interested party status, then "there is no reason to include in the § 1113 proceeding any person or entity whose consent would be unnecessary to a voluntary change in the agreement." *Id.* at 851. That does not accurately describe the facts of this case.

38. Debtors do not have the authority to modify their obligation to contribute to the 1974 Plan by agreement with the UMWA or otherwise. The Evergreen Clause requires the 1974 Plan to enforce Debtors' obligations to contribute to the 1974 Plan notwithstanding any modifications to any CBA agreed to by Debtors and the UMWA. Indeed, there is no party other than the 1974 Plan that has the authority and the obligation to enforce the Evergreen Clause. Accordingly, the 1974 Plan is not only an interested party, but a necessary party, even under the Seventh Circuit's interpretation.

39. The *UAL* case is further distinguishable because it involved single employer pension plans, which UAL proposed to terminate and place into Trusteeship with the Pension Benefit Guaranty Corporation ("PBGC"). Under the single-employer guarantee system, the only liability that flows from a plan termination arises against the employer itself. Multiemployer plans, like the 1974 Plan and even the 1993 Plan, are very different. The withdrawal of a single employer does not typically result in the termination of the plan. Rather, it results in a reduction in contribution income that can have a disastrous effect on the plan's participants and

[8] Importantly, in *UAL Corp.*, the pension fiduciary expressly agreed "not to take any position on whether [the pension plan terms] should be altered." *UAL Corp.*, 408 F.3d at 849. Despite this explicit agreement, the pension fiduciaries sought to participate in the 1113 proceeding. In the instant case, neither the 1974 Plan nor the 1993 Plan made any agreement to refrain from taking a position regarding the alteration of benefits provided by the Plans.

beneficiaries, and can lead to the reduction or elimination of benefits, including benefits payable to participants who have no relationship to Debtors or to their predecessors.

40. Additionally, in *UAL*, the court stated that "interested party" "is most naturally read to mean 'party to the collective bargaining agreement' or a guarantor of that contract." *Id.* at 850 (emphasis added). In the context of *UAL*, that "guarantor" would have been the PBGC. Here, because the 1974 Plan is a multiemployer plan, the "guarantor" is the other employers who contribute to the 1974 Plan; as a result of Patriot's withdrawal and failure to pay the resulting withdrawal liability, their allocable share of the Plan's unfunded liability would proportionally increase.[9] *See* Stover Decl. ¶ 17; 29 U.S.C. §§ 1381, *et seq.* Because enforcement of withdrawal liability is entrusted solely to the 1974 Plan itself, this alone makes the 1974 Plan an interested party with standing to intervene. *See* 29 U.S.C. § 1451(a) (ERISA Section 4301) ("A plan fiduciary . . . who is adversely affected by the act or omission of any party under this subtitle with respect to a multiemployer plan . . . may bring an action for appropriate legal or equitable relief, or both.").

41. Finally, Debtors' 1114 Proposal (as stated in the 1113/1114 Motion), provides for the creation of a Voluntary Employee Beneficiary Association ("VEBA"), to be administered by the UMWA Plans and their affiliates (or, in the alternative, the UMWA). *See* Memorandum of Law in Support of the 1113/1114 Motion at 52 ("Under the 1114 Proposal, the UMWA Funds would have full control over the use of the funds in the VEBA as well as eligibility,

[9] If an employer terminates a SEPP without paying all benefit commitments, the PBGC may be required to pay certain guaranteed benefits to pensioners. Accordingly, the PBGC has historically maintained an active involvement in employers' attempts to modify or reject collective bargaining agreements that would lead to termination of a SEPP, including in Chapter 11 cases. *See UAL*, 408 F.3d at 851 ("All of the legally protected interests are represented [in the 1113 proceedings] by labor, management, and the Pension Benefit Guaranty Corporation."). Just as PBGC is permitted to participate in the single-employer pension plan context, the 1974 Plan should be permitted to participate here, in the multiemployer pension plan context because it represents the interests of the other contributing employers.

administration, participation, program designs, and benefit levels."). Unlike *UAL*, where the 1113 agreement between the Debtor and the Union sought to terminate the plans, Debtors here seek to impose significant additional risks and responsibilities on the UMWA Plans. Such an imposition would be impossible without the affirmative consent of the UMWA Plans. Debtors cannot be allowed to propose judicial imposition of such risks and responsibilities without allowing the UMWA Plans to participate.

B. In the Alternative, the Court Should Permit the Plans' Intervention Under Fed. R. Bankr. P. 2018

42. In the alternative, in light of the Plans' significant interests that no other party adequately represents, the Court in its discretion under Fed. R. Bankr. P. 2018 may permit the Plans to intervene in the proceeding addressing the 1113/1114 Motion.

43. Rule 2018(a) provides for permissive intervention, separate and apart from standing under Sections 1109 and 1113. Under Rule 2018, the court may permit intervention, "for cause shown," even if the court finds that the Plans lack standing to intervene as a party in interest or interested party. *In re Citizens*, 7 B.R. at 90 (citation omitted); *see also* Fed. R. Bankr. P. 2018(a) ("for cause shown, the court may permit any interested entity to intervene generally or with respect to any specified matter").

44. Cause for permissive intervention exists if (a) intervention will not cause undue delay, cost, and/or confusion to the case or parties' rights; and (b) the proposed intervenor's participation is necessary to protect its interests in the matter, and other parties to the proceeding do not adequately represent those interests. *See In re Kujawa*, 112 B.R. 968, 972 (Bankr. E.D. Mo. 1990) (citing *In re Ionosphere Clubs, Inc.*, 101 B.R. 844, 853-54 (Bankr. S.D.N.Y. 1989)); *In re Citizens*, 7 B.R. at 90-91 (citations omitted).

45. Here, permissive intervention will not cause undue delay, cost, or confusion

because the Plans have prepared to be heard on targeted, focused issues under Section 1113 and 1114. The Plans have already begun gathering relevant evidence, consulted with financial advisors, and participated in planning for the hearing, including setting deadlines. The scope of the Plans' participation will necessarily be limited to Debtors' requests under Section 1113 and 1114 to eliminate contributions to the Plans and to reduce and/or eliminate retiree medical benefits – the only requested modifications that directly implicate the Plans' pecuniary interests. Within the Section 1113 and 1114 proceeding, the Plans expect their participation will be further limited to one or more of the following two (out of nine) requirements under Section 1113 and 1114, the only requirements that are applicable to them: (1) whether the proposed modifications are necessary to permit reorganization, and (2) whether the proposed modifications ensure that all affected parties are treated fairly and equally.[10] *See generally In re Am. Provision Co.*, 44 B.R. 907, 909 (Bankr. D. Minn. 1984) (setting forth nine requirements for rejection of CBA under Section 1113).

46. Further, the Plans' intervention is necessary to protect their pecuniary and other interests in this matter and other parties to the proceeding do not adequately represent those interests. Debtors' request to eliminate all contributions to and withdraw from the Plans would severely cripple the Plans' ability to provide benefits. Stover Decl. ¶ 15. The 1114 Proposal would also impose new obligations on the UMWA Plans with respect to the contemplated VEBA.

47. Finally, it is left to the UMWA Plans to enforce the additional obligations that will be imposed upon the other contributing employers, whose share of the Plans' liabilities will

[10] The UMWA Funds do not intend, and do not believe, that their participation in these proceedings will create duplication or otherwise upset the efficiency or timing of the process. The Plans anticipate including only two witnesses, including a fact witness whose testimony they believe will be largely uncontroversial. The Debtors have suggested that they would be willing to stipulate to uncontested portions of that witness's testimony.

be proportionally increased if Debtors withdraw and fail to pay the resulting withdrawal liability. *See id.* ¶¶ 17. Therefore, this Court should permit intervention under Rule 2018(a) even if the Court finds that the UMWA Plans do not have standing under Sections 1109(b) and 1113(d).

WHEREFORE, for the reasons set forth herein, the 1974 and 1993 Plans respectfully request that this Court enter its Order: (1) granting an emergency hearing on their Motion to Intervene; and (2) permitting them to intervene, participate in, and be heard at the Section 1113/1114 proceeding in this bankruptcy case.

Dated: March 29, 2013

Respectfully submitted,

DOWD BENNETT LLP

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Counsel for the United Mine Workers of America 1974 Pension Trust and the United Mine Workers of America 1993 Benefit Plan

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was filed on March 29, 2013 using the Court's CM/ECF system and that service will be accomplished by operation of that system upon all counsel of record, which includes counsel for all core parties.

/s/ Edward L. Dowd, Jr.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re:	)	**Chapter 11**
	)	**Case No. 12-51502-659**
PATRIOT COAL CORPORATION, *et al.*,	)	**(Jointly Administered)**
	)	
Debtors.	)	

DECLARATION OF DALE STOVER
IN SUPPORT OF THE EMERGENCY MOTION TO INTERVENE
BY THE UNITED MINE WORKERS OF AMERICA 1974 PENSION TRUST AND THE UNITED MINE WORKERS OF AMERICA 1993 BENEFIT PLAN

I, Dale Stover, hereby declare:

1. I have been employed since January 2, 1980 by the United Mine Workers of America Health & Retirement Funds ("UMWA Funds"). Since November 3, 2003, I have held the position of Director of Finance and General Services (previously Comptroller). As Director of Finance and General Services, and formerly as Comptroller, my responsibilities include monitoring the payments made by the contributing employers to the UMWA Funds – including the United Mine Workers of America 1974 Pension Trust ("1974 Plan") and the United Mine Workers of America 1993 Benefit Plan ("1993 Plan", and together with the 1974 Plan, the "UMWA Plans" or "Plans") – and taking steps to ensure contributing employers' compliance with their contractual contribution obligations.

2. The Plans are multiemployer pension and retirement benefit plans to which Patriot Coal Corporation ("Patriot") and its debtor-in-possession subsidiaries (collectively, "Debtors") are obligated to contribute pursuant to collective bargaining agreements ("CBAs").

3. The 1974 Plan is a multiemployer pension plan that was established by an agreement between the United Mine Workers of America ("UMWA") and the Bituminous Coal Operators' Association, Inc. ("BCOA"), entitled the National Bituminous Coal Wage Agreement ("NBCWA") of 1974. It is a successor to the UMWA Welfare and Retirement Fund of 1950, which grew out of the 1946 Krug-Lewis Agreement between the government of the United States and the UMWA, that first established the bituminous coal industry's health and retirement system.

4. The 1974 Plan provides pension benefits to more than 93,000 eligible participants and beneficiaries who are retired or disabled hourly coal production workers represented by the UMWA and their eligible surviving spouses. This population of participants and beneficiaries includes individuals eligible under the 1974 Plan and the 1950 Pension Plan, which merged into the 1974 Plan effective June 30, 2007.

5. Contributions payable to the 1974 Plan are governed by what is referred to as the "Evergreen Clause," which was first added to the 1974 Plan's governing documents in 1978. *See* 2013 Trust Document, art. 10 ¶ 2 (attached to Motion to Intervene as Exhibit C). The Evergreen Clause has been updated in each 1974 Pension Plan document subsequent to 1978 to make reference to the current NBCWA and successor agreements. For over twenty-five years, the 1974 Plan has engaged in litigation to enforce the Evergreen Clause contained in its Plan documents, and in particular, to create and maintain uniform contribution requirements for all employers participating in the 1974 Plan in order to provide retirement benefits to their

EXHIBIT "A" to
MOTION TO INTERVENE BY THE UMWA PLANS

employees. Individual employers that are bound by the terms of the Evergreen Clause do not have the authority to negotiate a modification or termination of their separate obligations to contribute to the 1974 Plan because of the multiemployer nature of the mutual promises contained in the clause.

6. Pursuant to Section 305(b)(3) of the Employee Retirement Income Security Act of 1974 ("ERISA"), the 1974 Plan's enrolled actuary certified the Plan to be in Seriously Endangered Status for the plan years beginning July 1, 2011 and July 1, 2012. The July 1, 2012 certification is based on an estimated funded percentage of 72.6% and an expected accumulated funding deficiency within the next six (6) years after the current plan year.

7. Five (5) debtor-in-possession entities, all of which are wholly owned subsidiaries of Patriot Coal Corporation, are currently obligated pursuant to CBAs to contribute to the 1974 Plan: Heritage Coal Co.; Eastern Associated Coal, LLC; Apogee Coal Co., LLC; Hobet Mining, LLC; and Highland Mining Company, LLC (collectively, "Debtors").

8. The 1993 Plan was established by the NBCWA of 1993. The 1993 Plan is a defined contribution plan that provides health benefits to approximately 11,000 retired coal workers, and their dependents.

9. The 1993 Plan covers retirees who are considered "orphans" because their last signatory employer is no longer in business and they are not otherwise covered and receiving benefits under the Coal Industry Retiree Health Benefit Act of 1992, 28 U.S.C. § 9701, *et seq.*

10. Approximately 3,000 beneficiaries of the 1993 Plan are funded solely by contributions from companies such as Patriot, which made a contractual promise to fund the necessary health benefits for orphan retirees through the term of the current NCBWA, which extends until December 31, 2016.

11. The current NBCWA, known as the 2011 NBCWA, continues in effect until at least December 31, 2016 and sets forth the contribution obligations of contributing employers to the UMWA Plans, benefit levels owed to the Plans' beneficiaries and participants, and eligibility requirements, among other substantive terms.

12. Debtors' current annual contribution to the 1974 Plan is approximately $20.9 million, and Debtors are projected to contribute another estimated $73.7 million through 2016. This projection is based upon an assumption that hours worked by industry employers will decline at the rate of 5% per year over the course of the 2011 NBCWA. Industry sources, including the UMWA and Bituminous Coal Operators Association as well as Funds staff, have recommended that this rate of decline be adopted by the 1974 Pension Plan's actuaries in their valuations of the Plan, and the actuaries have adopted it.

13. During calendar year 2012, Debtors contributed approximately 17.2% of all of the contributions received by the 1974 Pension Plan from all employers. Only one controlled group of employer companies contributed significantly more than the Debtors.

14. Debtors' current annual contribution to the 1993 Plan is approximately $3.7 million. During calendar year 2012, Debtors contributed approximately 16.2% of all of the contributions received by the 1993 Plan from all employers.

15. If Debtors terminate all contributions to and withdraw from the Plans, a significant loss of funding would result to both the 1974 Pension Plan and the 1993 Plan. This, in turn, likely would affect the level of health benefits provided to nearly 3,000 current beneficiaries in the 1993 Plan. In addition, the annual loss of more than $17 million in contributions to the 1974 Pension Plan would harm the financial condition of the 1974 Pension

Plan and hasten the date when the Plan is expected to become insolvent, at which time pension benefits would be required to be reduced to over 93,000 eligible beneficiaries.

16. If Debtors were to cease all contributions to the 1974 Plan, Debtors would be liable for approximately $959 million in withdrawal liability under the Plan's withdrawal liability rules and Section 4211 of ERISA, as amended, which withdrawal liability constitutes their proportionate share of the Plan's unfunded vested pension liabilities.

17. In addition, as a result of the loss of funding caused by Debtors' withdrawal and their failure to pay their withdrawal liability assessment in its entirety, the share of the 1974 Plan's unfunded liabilities attributable to each of the remaining employers would be proportionally increased.

18. If Debtors were to cease all contributions to the 1993 Plan, retirees who received benefits from Patriot may seek coverage from the 1993 Plan. These retirees, who number more than 7,000, may or may not qualify for coverage from the 1993 Plan. Generally, retirees of an employer that is still in business, or an employer that does not have an obligation to contribute to the 1993 Plan, are not eligible to receive benefits from the 1993 Benefit Plan. In addition, even if the retirees currently covered by Patriot became eligible for benefits from the 1993 Plan, the 1993 Plan does not have sufficient assets to provide coverage to them. The 1993 Plan would become insolvent if it had to provide coverage to these retirees. In addition, it has been estimated by the Director of Research and Analysis for the UMWA Funds that the enrollment of approximately 7,000 new Patriot beneficiaries in the 1993 Plan would necessitate a 75% reduction in benefits for existing beneficiaries in the 1993 Plan. *See, e.g.*, Addendum to Proof of Claim #3568, at ¶ 4 (filed Dec. 14, 2012), a copy of which is attached hereto as Exhibit 1. The 1993 Plan cannot obtain increased contributions from other employers to account for the

Patriot retirees. Instead, the 1993 Plan will have to reduce benefit levels to approximately 3,000 of its current beneficiaries.

19. Except as otherwise indicated, the facts set forth above are based on my personal knowledge and opinion, and my review of relevant documents.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed: March 29, 2013

Dale Stover

EXHIBIT "A" to
MOTION TO INTERVENE BY THE UMWA PLANS

EXHIBIT 1

FILED - 03568
U.S. BANKRUPTCY COURT - SOUTHERN DISTRICT OF NEW YORK
PATRIOT COAL CORPORATION
12-12900 (SCC)

Modified B 10 (GCG) (12-11)

UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

You may only check one Debtor box. If you have a claim against multiple Debtors listed below you must complete a separate proof of claim form for each such Debtor.

Name of Debtor:	Case No.	Name of Debtor:	Case No.	Name of Debtor:	Case No.
☐ Affinity Mining Company	12-12902	☐ Eastern Royalty, LLC	12-12936	☐ Patriot Coal Sales LLC	12-12969
☐ Apogee Coal Company, LLC	12-12903	☐ Emerald Processing, L.L.C.	12-12937	☐ Patriot Coal Services LLC	12-12970
☐ Appalachia Mine Services, LLC	12-12904	☐ Gateway Eagle Coal Company, LLC	12-12938	☐ Patriot Leasing Company LLC	12-12971
☐ Beaver Dam Coal Company, LLC	12-12905	☐ Grand Eagle Mining, LLC	12-12939	☐ Patriot Midwest Holdings, LLC	12-12972
☐ Big Eagle, LLC	12-12906	☐ Heritage Coal Company LLC	12-12940	☐ Patriot Reserve Holdings, LLC	12-12973
☐ Big Eagle Rail, LLC	12-12907	☐ Highland Mining Company, LLC	12-12941	☐ Patriot Trading LLC	12-12974
☐ Black Stallion Coal Company, LLC	12-12908	☐ Hillside Mining Company	12-12942	☐ PCX Enterprises, Inc.	12-12899
☐ Black Walnut Coal Company	12-12909	☐ Hobet Mining, LLC	12-12943	☐ Pine Ridge Coal Company, LLC	12-12975
☐ Bluegrass Mine Services, LLC	12-12910	☐ Indian Hill Company LLC	12-12944	☐ Pond Creek Land Resources, LLC	12-12976
☐ Brook Trout Coal, LLC	12-12911	☐ Infinity Coal Sales, LLC	12-12945	☐ Pond Fork Processing LLC	12-12977
☐ Catenary Coal Company, LLC	12-12913	☐ Interior Holdings, LLC	12-12946	☐ Remington Holdings LLC	12-12978
☐ Central States Coal Reserves of Kentucky, LLC	12-12914	☐ IO Coal LLC	12-12947	☐ Remington II LLC	12-12979
☐ Charles Coal Company, LLC	12-12916	☐ Jarrell's Branch Coal Company	12-12948	☐ Remington LLC	12-12980
☐ Cleaton Coal Company	12-12917	☐ Jupiter Holdings LLC	12-12949	☐ Rivers Edge Mining, Inc.	12-12981
☐ Coal Clean LLC	12-12918	☐ Kanawha Eagle Coal, LLC	12-12950	☐ Robin Land Company, LLC	12-12982
☐ Coal Properties, LLC	12-12919	☐ Kanawha River Ventures I, LLC	12-12951	☐ Sentry Mining, LLC	12-12983
☐ Coal Reserve Holding Limited Liability Company No. 2	12-12920	☐ Kanawha River Ventures II, LLC	12-12952	☐ Snowberry Land Company	12-12984
☐ Colony Bay Coal Company	12-12921	☐ Kanawha River Ventures III, LLC	12-12953	☐ Speed Mining LLC	12-12985
☐ Cook Mountain Coal Company, LLC	12-12922	☐ KE Ventures, LLC	12-12954	☐ Sterling Smokeless Coal Company, LLC	12-12986
☐ Corydon Resources LLC	12-12923	☐ Little Creek LLC	12-12955	☐ TC Sales Company, LLC	12-12987
☐ Coventry Mining Services, LLC	12-12924	☐ Logan Fork Coal Company	12-12956	☐ The Presidents Energy Company LLC	12-12988
☐ Coyote Coal Company LLC	12-12925	☐ Magnum Coal Company LLC	12-12957	☐ Thunderhill Coal LLC	12-12989
☐ Cub Branch Coal Company LLC	12-12926	☐ Magnum Coal Sales LLC	12-12958	☐ Trout Coal Holdings, LLC	12-12990
☐ Dakota LLC	12-12927	☐ Martinka Coal Company, LLC	12-12959	☐ Union County Coal Co., LLC	12-12991
☐ Day LLC	12-12928	☐ Midland Trail Energy LLC	12-12960	☐ Viper LLC	12-12992
☐ Dixon Mining Company, LLC	12-12929	☐ Midwest Coal Resources II, LLC	12-12961	☐ Weatherby Processing LLC	12-12993
☐ Dodge Hill Holding JV, LLC	12-12930	☐ Mountain View Coal Company, LLC	12-12962	☐ Wildcat Energy LLC	12-12994
☐ Dodge Hill Mining Company, LLC	12-12931	☐ New Trout Coal Holdings II, LLC	12-12963	☐ Wildcat, LLC	12-12995
☐ Dodge Hill of Kentucky, LLC	12-12932	☐ Newtown Energy, Inc.	12-12964	☐ Will Scarlet Properties LLC	12-12996
☐ EACC Camps, Inc.	12-12933	☐ North Page Coal Corp.	12-12965	☐ Winchester LLC	12-12997
☒ Eastern Associated Coal, LLC	12-12934	☐ Ohio County Coal Company, LLC	12-12966	☐ Winifrede Dock Limited Liability Company	12-12998
☐ Eastern Coal Company, LLC	12-12935	☐ Panther LLC	12-12967	☐ Yankeetown Dock, LLC	12-12999
		☐ Patriot Beaver Dam Holdings, LLC	12-12898		
		☐ Patriot Coal Company, L.P.	12-12968		
		☐ Patriot Coal Corporation	12-12900		

NOTE: *Do not use this form to make a claim for an administrative expense that arises after the bankruptcy filing. You may file a request for payment of an administrative expense according to 11 U.S.C. § 503.*

PROOF OF CLAIM

Name of Creditor (the person or other entity to whom the Debtor owes money or property): UMWA 1993 BENEFIT PLAN

Name and address where notices should be sent:
UMWA 1993 BENEFIT PLAN
c/o Barbara E Locklin, Asst Gen Counsel
2121 K St NW Suite 350
Washington, DC 20037

12-14-12 P04:37 IN

Telephone number:
E-mail: blocklin@umwafunds.org

☐ Check this box to indicate that this claim amends a previously filed claim.

Court Claim Number: _____ (If known)

Original Claim Filed on: _____

Name and address where payment should be sent (if different from above).

Same as above

Telephone number:
E-mail:

☐ Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars

Your Claim Is Scheduled As Follows:

THE GARDEN CITY GROUP INC. DEC 14 2012

If an amount is identified above, you have a claim scheduled by the Debtor as shown. (This scheduled amount of your claim may be an amendment to a previously scheduled amount.) If you agree with the amount and priority of your claim as scheduled by the Debtor and you have no other claim against the Debtor, you do not need to file this proof of claim form. EXCEPT AS FOLLOWS: If the amount shown is listed as DISPUTED, UNLIQUIDATED, or CONTINGENT, a proof of claim MUST be filed in order to receive any distribution in respect of your claim. If you have already filed a proof of claim in accordance with the attached instructions, you need not file again.

1. **Amount of Claim as of Date Case Filed (July 9, 2012):** $ Cont. est. $76 million
(See instruction #1)

If all or part of the claim is secured, complete item 4.

If all or part of the claim is entitled to priority, complete item 5.

☐ Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.

2. **Basis for Claim:**
(See instruction #2) Contingent estimated health benefits claims under NBCWAs & ERISA.

3. **Last four digits of any number by which creditor identifies Debtor:**
(See instruction #3) 5 5 1 6

3a. **Debtor may have scheduled account as:** _____
(See instruction #3a)

3b. **Uniform Claim Identifier (optional):** _____
(See instruction #3b)

EXHIBIT "A" to
MOTION TO INTERVENE BY THE UMWA PLANS

4. **Secured Claim** (See instruction #4)
Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information.

Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any: $_____

Nature of property or right of setoff: ☐ Real Estate ☐ Equipment ☐ Other

Describe: _____

Basis for perfection: _____

Value of Property: $_____

Amount of Secured Claim: $_____

Annual Interest Rate _____% ☐ Fixed or ☐ Variable (when case was filed)

Amount Unsecured: $_____

5. **Amount of Claim Entitled to Priority under 11 U.S.C. § 507 (a). If any part of the claim falls into one of the following categories, check the box specifying the priority and state the amount.** (See instruction #5)

☐ Domestic support obligations under 11 U.S.C. § 507 (a)(1)(A) or (a)(1)(B)

☐ Up to $2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. § 507 (a)(7).

☐ Wages, salaries, or commissions (up to $11,725*) earned within 180 days before the case was filed or the Debtor's business ceased, whichever is earlier – 11 U.S.C. § 507 (a)(4).

☐ Taxes or penalties owed to governmental units – 11 U.S.C. § 507 (a)(8).

☐ Contributions to an employee benefit plan – 11 U.S.C. § 507 (a)(5)

☒ Other – Specify applicable paragraph of 11 U.S.C. § 507 (a)(__).

Amount entitled to priority:
$ $76 million all or part admin. exp.

Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.

6. **Claim Pursuant to 11 U.S.C. § 503 (b)(9).** *(See instruction #6)* Indicate the amount of your claim arising from the value of any goods received by the Debtor within 20 days before July 9, 2012, the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of the Debtor's business. Attach documentation supporting such claim. $_____

7. **Credits.** The amount of all payments on this claim has been credited for the purpose of making this proof of claim. *(See instruction #7)*

8. **Documents:** Attached are **redacted** copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. If the claim is secured, box 4 has been completed, and **redacted** copies of documents providing evidence of perfection of a security interest are attached. (*See instruction #8, and the definition of "redacted".*)

DO NOT SEND ORIGINAL DOCUMENTS ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain: _____

9. **Signature:** (See instruction #9)
Check the appropriate box.

☐ I am the creditor ☒ I am the creditor's authorized agent. (Attach copy of power of attorney, if any.) ☐ I am the trustee, or the Debtor, or its authorized agent. (See Bankruptcy Rule 3004.) ☐ I am a guarantor, surety, indorser, or other codebtor. (See Bankruptcy Rule 3005.)

I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.

Print Name: Barbara E. Locklin
Title: Assistant General Counsel
Company: UMWA Health & Retirement Funds
Address and telephone number (if different from notice address above):
2121 K St. NW, Suite 350
Washington, DC 20037

B.E. Locklin 12/13/12
(Signature) (Date)

Telephone number: (202) 521-2238 e-mail: blocklin@umwafunds.org

Penalty for presenting fraudulent claim: Fine of up to $500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571

INSTRUCTIONS FOR PROOF OF CLAIM FORM

The instructions and definitions below are general explanations of the law. In certain circumstances, such as bankruptcy cases not filed voluntarily by the Debtor, exceptions to these general rules may apply. The attorneys for the Debtor and its Court-appointed claims agent, GCG, Inc. ("GCG"), are not authorized to provide you, and are not providing you, with any legal advice.

PLEASE SEND YOUR ORIGINAL, COMPLETED CLAIM FORM AS FOLLOWS: **IF BY FIRST CLASS MAIL:** Patriot Coal Claims Processing Center, c/o GCG, P.O. Box 9898, Dublin, Ohio 43017-5798 **IF BY HAND DELIVERY OR OVERNIGHT MAIL:** Patriot Coal Claims Processing Center, c/o GCG, 5151 Blazer Parkway, Suite A, Dublin, Ohio 43017. **ANY PROOF OF CLAIM SUBMITTED BY FACSIMILE OR EMAIL WILL NOT BE ACCEPTED.**

THE GENERAL BAR DATE IS DECEMBER 14, 2012 AT 5:00 P.M. (PREVAILING EASTERN TIME) AND THE GOVERNMENTAL BAR DATE IS JANUARY 21, 2013 AT 5:00 P.M. (PREVAILING EASTERN TIME)

EXHIBIT "A" to
MOTION TO INTERVENE BY THE UMWA PLANS

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	**Chapter 11**
PATRIOT COAL CORPORATION, *et al.*,	**Case No. 12-12900 (SCC)**
Debtors[1]	**Jointly Administered**

ADDENDUM TO PROOF OF CLAIM
OF THE UMWA 1993 BENEFIT PLAN AND TRUST

1. The UMWA 1993 Benefit Plan and Trust ("1993 Plan") is an irrevocable trust established in accordance with Section 302(c)(5) of the Labor-Management Relations Act of 1947, 29 U.S.C. § 186(c)(5).[2] The 1993 Plan is a multiemployer, employee welfare benefit plan as defined in Sections 3(1) and 3(37) of the Employee Retirement Income Security Act of 1974 (as amended) ("ERISA"), 29 U.S.C. §§ 1002(3), 1002(37). The 1993 Plan provides health and other non-pension benefits to certain retired miners, their surviving spouses and dependents.

2. The contribution obligation to the 1993 Plan that is imposed on contributing employers, the benefit levels due the Plan's beneficiaries and participants, the eligibility requirements, and the other substantive terms of the Plan were established in collective bargaining between the United Mine Workers of America ("UMWA") and the Bituminous Coal Operators' Association, Inc. ("BCOA") in a series of collective bargaining agreements styled the National Bituminous Coal Wage Agreements ("NBCWAs"). The most recent NBCWA containing these obligations is the 2011 NBCWA, which is in effect until December 31, 2016.

[1] A list of the Debtors is attached hereto as Schedule 1. The Debtors' case numbers are listed as assigned by the Clerk of the Bankruptcy Court for the Southern District of New York.

[2] Michael H. Holland, Daniel L. Fassio, Marty D. Hudson and Kurt R. Salvatori are Trustees of the 1993 Plan (the "Trustees").

The 1993 Plan's claims against the debtor identified on the first page of this proof of claim to which this addendum is appended and made a part of (the "Debtor").[3] arise under the 1993 Plan, the NBCWAs and ERISA.[4]

3. Patriot Coal Corporation, through the following ten (10) wholly-owned subsidiaries – Apogee Coal Company LLC; Colony Bay Coal Company; Eastern Associated Coal LLC; Eastern Coal Company, LLC; Heritage Coal Company LLC; Highland Mining Company LLC; Hobet Mining LLC; Mountain View Coal Company, LLC; Pine Ridge Coal Company, LLC; and Rivers Edge Mining, Inc., (collectively with the Debtor for purposes of this Proof of Claim, the "Debtors") – were signatory to prior NBCWAs and are signatory to the current 2011 NBCWA. Under the 2011 NBCWA, the Debtors are required to contribute $1.10 per hour worked by employees for work covered by the 2011 NBCWA. NBCWA Art. XX(d)(ii). Under this obligation, the Debtors currently contribute approximately $4.1 million per year to the 1993 Plan and are projected to contribute an estimated $16.4 million or more over the remaining term of the 2011 NBCWA.

4. The 1993 Plan is a defined contribution plan with the Debtors' contribution rate set at $1.10 an hour for the term of the 2011 NBCWA. These contributions are pooled with contributions from other participating employers and used to provide retiree health care benefits to approximately 2,700 eligible beneficiaries who enrolled in the 1993 Plan after December 31, 2006, for the term of the 2011 NBCWA. In addition to this contribution obligation to the 1993

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[3] The 1993 Plan also makes this claim against any affiliated debtor which is found to be liable as a successor employer, joint employer or alter ego of the Debtor, or as a joint plan sponsor or participant of the Debtors' arrangement to provide health benefits to their retirees. In addition, the Plan believes that the Debtors maintained health benefit plans which were commonly administered, maintained and funded for the mutual benefit of all the companies such that they constituted a joint venture. Accordingly, this claim is made against all of the Debtors jointly and severally.

[4] Upon information and belief, the Debtors have complete copies of the NBCWAs. Due to the voluminous size of the applicable documents, they are not attached hereto. Copies of the documents can be made available upon request and entry into a satisfactory confidentiality agreement.

Plan, the Debtors also are obligated under the 2011 NBCWA to provide retiree health benefits to their own retirees for life. *Id.* Art. XX(c)(3)(i). If the Debtors discontinue providing benefits to their own eligible retirees during the term of the 2011 NBCWA, and if the Debtors' retirees satisfy the collectively-bargained eligibility requirements of the 1993 Plan, it is estimated that between 7,000 and 11,000 of Debtors' retirees could become eligible for benefits from the 1993 Plan. Such an infusion of new beneficiaries into the 1993 Plan would overwhelm and devastate the 1993 Plan, and require a substantial reduction in benefits for all of the 1993 Plan's beneficiaries who enrolled in the Plan after December 31, 2006. It is estimated that the enrollment of approximately 7,000 new Patriot beneficiaries, together with the loss of Patriot's contributions to the 1993 Plan described above, could necessitate a 75% reduction in benefits for such existing 1993 Plan beneficiaries. Over the four years from 2013 – 2016, this benefit reduction is equivalent to $59.6 million.

5. The 1993 Plan's claim is contingent on whether the Debtors are authorized by the applicable Bankruptcy Court to modify or terminate their collectively bargained obligations, and contingent upon the Patriot retirees satisfying the Plan's eligibility criteria. The 1993 Plan hereby asserts its claim as an administrative expense pursuant to, *inter alia*, Section 1114(e) of the Bankruptcy Code. To the extent required, the 1993 Plan will file a request for allowance and payment of administrative expenses. In the alternative, any remaining amount is hereby claimed as a priority claim and as a general unsecured claim.

6. This claim is not subject to any valid set-off or counterclaim.

7. As of the date hereof, the Trustees are unaware of any pre-petition contribution delinquencies due and owing to the 1993 Plan. However, Claimant hereby reserves the right to further amend or supplement this proof of claim, or to file additional proofs of claim, including

without limitation the right to assert additional 507(a)(5) priority and/or administrative expense claims (including without limitation administrative claims relating to delinquencies, costs to obtain documentation for a business status investigation or audit, interest, liquidated damages, reasonable attorney's fees and costs, to reflect other amounts that may be due and owing. In executing and filing this proof of claim, the 1993 Plan does not submit itself to the jurisdiction of the applicable bankruptcy court for any purpose other than with respect to the proof of claim and does not waive (i) any of its rights and remedies against any other person or entity who may be liable for all or part of the claims set forth herein, whether an affiliate, assignee, guarantor or otherwise; or (ii) any other obligation owed to the 1993 Plan.

Dated: December 13, 2012

EXHIBIT B

UNITED MINE WORKERS OF AMERICA 1974 PENSION TRUST

Pursuant to Article XX of the National Bituminous Coal Wage Agreement of 1974, there is hereby established a trust to be known as the "United Mine Workers of America 1974 Pension Trust" (hereinafter sometimes referred to as "Trust" or "1974 Pension Trust") for the purpose of making benefit payments pursuant to the provisions of the United Mine Workers of America 1974 Pension Plan (hereinafter sometimes referred to as the "Plan" or the "1974 Pension Plan"). The provisions of said 1974 Pension Trust are effective as of December 6, 1974, and, as amended as of March 27, 1978, April 29, 1980, June 7, 1981, October 1, 1984, February 1, 1988, February 1, 1991, December 16, 1993, January 1, 1998, January 1, 2002, January 1, 2007, and July 1, 2011, are as set forth below.

The 1974 Pension Plan and Trust is a continuation of the benefit program established under the UMWA Welfare and Retirement Fund of 1950 and, effective June 30, 2007, is the surviving Plan and Trust following the merger of the United Mine Workers of America 1950 Pension Plan and the United Mine Workers of America 1950 Pension Trust with the 1974 Pension Plan and the 1974 Pension Trust.

Except to the extent otherwise required by the Employee Retirement Income Security Act of 1974 ("ERISA") or other applicable law, governmental rule or regulation, and except to the extent that the 1974 Pension Plan or 1974 Pension Trust specifically provides otherwise, or as required by the context, all amendments to the 1974 Pension Trust effective as of July 1, 2011, pursuant to the authority contained in Article XI herein, shall be given only prospective application commencing on July 1, 2011, and shall have no retroactive application whatever. The amendments effective as of July 1, 2011, shall not be deemed to be an approval or disapproval by the parties to any action or failure to act by any Trustee or Trustees for any period prior to July 1, 2011. The terms and provisions of the 1974 Pension Trust in effect as of June 30, 2011, shall continue in effect and shall be applicable only to circumstances or events which occurred prior to July 1, 2011, and which are not governed by the amendments adopted as of July 1, 2011.

ARTICLE I

The following terms shall have the meanings herein set forth:

(1) "Wage Agreement" means the National Bituminous Coal Wage Agreement of 1974, as amended from time to time and any successor thereto, including, but not limited to, the National Bituminous Coal Wage Agreement of 2011. Any reference in this Trust to the Wage Agreement or to the bituminous coal wage agreement then in effect shall also refer (a) to the Sub-bituminous and Lignite Agreement and the National Coal Mine Construction Agreement with respect to any period for which such agreements provide that pension benefit payments shall be made available pursuant to this Trust or a predecessor Trust established under the bituminous coal wage agreement, (b) with respect to any period prior to the 1950 Bituminous Coal Wage Agreement, to any collective bargaining contract between the United Mine Workers of America and any employer in the bituminous coal industry, and (c) solely for the purposes of determining who is

required to make contributions to, and receive benefits under, the 1974 Pension Trust, any other collective bargaining contract entered into between the United Mine Workers of America and any employer in the bituminous coal industry, which contract provides that contributions shall be made to or benefit payments made from this Plan.

(2) "Employer" means an employer who is signatory to the Wage Agreement or, with respect to prior periods, was signatory to the bituminous coal wage agreement then in effect.

(3) "Plan" shall refer to the "United Mine Workers of America 1974 Pension Plan" established pursuant to Article XX of the National Bituminous Coal Wage Agreement of 1974.

(4) "Trustees" shall mean the trustees of this Trust designated in accordance with the provisions of Article II hereof, who shall be the named fiduciaries required pursuant to Section 402 of ERISA and the Plan Administrator, as that term is defined in that Act; provided, however, that this instrument may be amended pursuant to Article XI hereof to designate other or additional named fiduciaries.

(5) "UMWA" or "Union" shall mean the United Mine Workers of America.

ARTICLE II

The 1974 Pension Trust shall be administered by a Board of four Trustees, two of whom shall be appointed as representatives of the Employers, and two of whom shall be appointed as representatives of the Union. The Union may remove the Trustees appointed by it, at any time and for any reason, and the Employers may remove the Trustees appointed by them, at any time and for any reason.

For purposes of taking any action and all other aspects of administration under the 1974 Pension Plan or Trust, a quorum shall consist of two of the four Trustees, one of whom must be a representative of the Union, and one of whom must be a representative of the Employers; provided, however, that a quorum shall not be deemed to exist unless all Trustees have received reasonable notice of the meeting at which any action is taken, unless such notice is waived. Any Trustee may call a meeting of the Trustees pursuant to the provisions hereof. The Trustees need not be physically present to constitute a quorum, but may conduct business telephonically or through similar modes of simultaneous communication. Alternatively, the Trustees may act without meeting, by written resolution signed by all Trustees.

In the event that a meeting is held or action is taken without the participation of both of the Trustees appointed by the Union and both of the Trustees appointed by the Employers, each side (the Employer Trustees and the Union Trustees) shall be required to vote as a unit. In all other cases, each Trustee will be entitled to one vote.

In the event of resignation, death, removal, inability or unwillingness to serve of a Trustee appointed by the Employers or a Trustee appointed by the Union, the Employers shall appoint the successor of the Trustee originally appointed by them in accordance with the terms of Article

XX of the National Bituminous Coal Wage Agreement of 2011, as amended from time to time, and any successor agreements to that specific Agreement, and the Union shall appoint the successor of the Trustee originally appointed by it. In the event of a deadlock on the administration of the Trust Fund between the Employer Trustees and the Union Trustees, an impartial umpire shall be selected either by agreement of the four Trustees, representatives of the contracting parties hereto, or by petition by either of the contracting parties hereto or by either of the two groups of Trustees to the United States District Court of the District of Columbia for the appointment of such an impartial umpire, all as made and provided in Section 302(c) of the Labor-Management Relations Act of 1947.

The four Trustees so designated shall constitute the Board of Trustees to administer the 1974 Pension Trust, as it may be amended from time to time. The Union shall designate one Trustee to serve as Chairman.

The UMWA and the BCOA may each designate a liaison representative who shall be permitted to attend Trustee meetings, to request and receive data and information relating to Fund operations, and to meet with Fund staff and representatives regarding issues relating to the Fund.

The Trustees shall retain outside co-counsel who shall serve as the legal advisors to the Fund and the Trustees. This shall not preclude the Trustees from exercising their authority to retain additional counsel as set forth in Article VI(10).

This Trust shall have its principal place of business in Washington, D.C., or such other place as may be determined by the Trustees.

ARTICLE III

The 1974 Pension Trust established with the Trustees hereunder is an irrevocable trust created pursuant to Section 302(c) of the Labor-Management Relations Act of 1947, which shall endure as long as the purposes for its creation shall exist. The 1974 Pension Trust consists of such sums of money and other property, acceptable to the Trustees, as from time to time shall be contributed to, held by, or paid or delivered to the Trustees and such earnings, profits, and increments thereon as may occur from time to time. All such money and other property delivered to the Trustees and all investments and reinvestments made therewith or proceeds thereof and all earnings and profits thereon, less the payments which at the time of reference shall have been made by the Trustees as authorized herein, are referred to herein as the "assets of the 1974 Pension Trust." The assets of the 1974 Pension Trust shall be held by the Trustees and dealt with in accordance with the express provisions of this instrument and the requirements of law.

The monies to be paid into the 1974 Pension Trust shall not in any manner be liable for or subject to the debts, contract, liabilities or torts of the parties entitled to such money, i.e., the beneficiaries of said 1974 Pension Trust under the terms of the instrument.

ARTICLE IV

The Trustees, or such other persons as may be properly designated pursuant to Article IX hereof, are directed and authorized (a) to hold, to invest and to reinvest the assets of the 1974 Pension Trust as provided herein; (b) to pay monies from the 1974 Pension Trust in accordance with the terms of the Plan for the purpose of distributing the benefits payable under the Plan; and (c) to pay the cost of administration of the 1974 Pension Trust as hereinafter provided.

Subject to the provisions of this Trust and the Plan, the Trustees shall have full and exclusive authority and discretion to determine all questions of coverage and eligibility, including all factual determinations, investment of trust funds, delivery of benefits, and all other related matters. They shall have full discretionary power to construe the provisions of this Agreement and Declaration of Trust and the Plan. The Trustees are empowered to promulgate such reasonable rules and regulations as they determine to be desirable for carrying out the purposes of this Trust and of the Plan.

ARTICLE V

The Trustees, or such other persons as may be properly designated pursuant to Article IX hereof, shall have full discretionary powers of management and control, of sale and resale, in fee simple or otherwise, mortgage, lease, and pledge, of the assets of the 1974 Pension Trust, and shall not be restricted to investments in securities or property of the character now or hereafter authorized by law or rules of the United States District Court for the District of Columbia. To the extent permitted by ERISA, the Trustees are authorized to invest assets of the 1974 Pension Trust in deposits described in Section 408(b)(4) of ERISA, and in common or collective trust funds or pooled investment funds, including but not limited to those described in Section 408(b)(8) of ERISA. In the event that the Trustees invest assets of the 1974 Pension Trust in a pooled investment trust which is exempt from taxation as a group trust under Sections 401(a) and 501(a) of the Internal Revenue Code (with respect to funds which equitably belong to participating trusts described in such Sections of the Code), the provisions of said pooled investment trust shall be deemed to be a part of the Plan. The assets of the 1974 Pension Trust shall be invested and reinvested, without distinction between principal and income, in securities and other forms of property, including but not limited to, real estate, corporate stocks (common and preferred), debentures, bonds and other obligations whether or not secured. The Trustees, or such other persons as may be properly designated pursuant to Article IX hereof, shall not be limited to the amount or type of any investment in relation to the amount or type of investments constituting the Trust as a whole, except as provided by ERISA.

The Trustees or such other persons as may be properly designated pursuant to Article IX hereof may, in their discretion, keep such portion of the assets of the 1974 Pension Trust in cash or cash balances as the Trustees may determine to be reasonably necessary to satisfy the current needs of the Trust.

ARTICLE VI

Neither by way of limitation nor in derogation, but in amplification of any powers granted herein, the Trustees, or such other persons as may be properly designated pursuant to Article IX hereof, are further authorized:

(1) To purchase, sell, exchange, convey, transfer or dispose of, and also to grant options with respect to, any property, whether real or personal, at any time held by them and to make any sale, private or public;

(2) To retain, manage, operate, repair, improve, develop, preserve, mortgage or lease for any period any real property interests or rights held by the Trustees upon such terms and conditions as the Trustees deem proper, either alone or by joining with others, using other trust assets for any of such purposes if by them deem advisable; to modify, extend, renew, or otherwise adjust any or all of the provisions of any such mortgage or lease, including the waiver of rentals, if by them deemed advisable;

(3) To compromise, compound and settle any debt or obligations due from third persons to them or to third persons from them, as Trustees hereunder, and to reduce the rate of interest on, to extend or otherwise modify, or to foreclose upon default or otherwise enforce, any such obligations;

(4) To vote in person or by proxy and to give general or special proxies or powers of attorney, with or without power of substitution, on any securities or other investments held by them;

(5) To exercise any rights or options appurtenant to any securities or other property held by them for the conversion thereof into other securities or property, or to exercise any rights or options held by them to subscribe for or purchase additional securities or other property, and to make any and all necessary payments with respect to any such conversion or exercise;

(6) To join in, dissent from or oppose, the reorganization, recapitalization, consolidation, sale or merger of corporations or properties of which they may hold stocks, bonds or other securities or in which they may be interested, upon such terms and conditions as they may deem prudent; to pay any expenses, assessments or subscriptions in connection therewith and to accept any securities or property (whether or not the Trustees would be authorized to then invest in such securities or property) which may be issued upon any such reorganization, recapitalization, consolidation, sale or merger, and thereafter to hold the same;

(7) To make, execute, acknowledge and deliver any and all deeds, leases, mortgages, assignments, documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(8) To enforce any right, obligation or claim in their absolute discretion and in general to protect in any way the interest of the Trust, either before or after default with respect to any such

right, obligation or claim, and, in case they shall consider such action for the best interest of the Trust, in their absolute discretion to abstain from the enforcement of any right, obligation or claim and to abandon any property, whether real or personal, which at any time may be held by them:

(9) To borrow or raise money for the purpose of the Trust in such amount and upon such terms and conditions as in their absolute discretion they may deem advisable; and for any sums so borrowed to issue their promissory note as Trustees and to secure the repayment thereof by mortgaging or pledging all or any part of the Trust; and no person lending money to the Trustees shall be bound to see to the application of the money loaned or to inquire into the validity, expediency or propriety of any such borrowing;

(10) To employ suitable agents and counsel from time to time, and to pay them reasonable expenses and compensation;

(11) To retain without liability for depreciation any securities or property at any time purchased and/or received by the Trustees as a part of the Trust;

(12) To do all acts which may be necessary to comply with any of the requirements of ERISA or any other federal law;

(13) To enter into any and all contracts and agreements for carrying out the terms of the Plan and the 1974 Pension Trust and for the administration of such Plan and Trust; and

(14) To do all acts which they may deem necessary or proper and to exercise any and all powers of the Trustees under this instrument under such terms and conditions as they may deem to be for the best interest of the Trust.

(15) To enter into an arrangement with the UMWA for the check-off of membership dues, including assessments, initiation fees, credit union, voluntary COMPAC contributions and other voluntary deductions; provided that any such arrangement must be terminable by the Trustees upon reasonable notice, must be revocable by the Participant at any time upon reasonable notice to the Trustees, and either

(a) such arrangement must not permit any Participant or beneficiary to check-off an amount exceeding 10% of his or her monthly benefit; or

(b) the designated recipient must file a written acknowledgement that it has no enforceable right in or to any plan benefit or portion thereof (except to the extent of payments actually received pursuant to the terms of the arrangement);

and such arrangement must comply in all respects with the requirements of the Internal Revenue Code of 1986, as amended, ERISA, the Labor Management Relations Act of 1947, as amended, and any other applicable law.

The Trustees may, in their sole discretion, cause the securities which from time to time may comprise the Trust, to be registered in their name as Trustees hereunder, or in the name of their nominee without disclosing the ownership thereof or to take and keep the same unregistered, and to retain them, or any part thereof, in such condition that they will pass by delivery.

Notwithstanding the above authority granted the Trustees hereunder, no power shall be exercisable in any manner which will, or might, prevent the 1974 Pension Plan and Trust from qualifying, or continuing to qualify, under Section 401 of the Internal Revenue Code, nor shall any action be taken by the Trustees which violates the requirements of ERISA or any other applicable law, governmental rule or regulation.

ARTICLE VII

The expenses incurred by the Trustees in the performance of their duties hereunder, including reasonable compensation for the Trustees in accordance with Section 408(c)(2) of ERISA, for agents, and for service of counsel rendered to the Trustees and expenses incident thereto, and all other proper charges and disbursements of the Trustees, including all taxes of any kind and all kinds whatsoever that may be levied or assessed under existing or future laws of any jurisdiction upon or in respect of the Trust hereby created or any money, property or securities forming a part thereof, shall be paid by the Trustees out of the Trust.

ARTICLE VIII

A Trustee shall not be liable for the making, retention, or sale of any investment or reinvestment made by him as herein provided; for any loss to or diminution of the Trust; or for anything done or omitted under this instrument, except for his own willful misconduct or lack of good faith, or any other action or omission for which personal liability is imposed under Part 4 of Subtitle B of Title I of ERISA. Any Trustee may consult with legal counsel concerning any questions which may arise with reference to his duties under this instrument, and, except as otherwise provided by ERISA, the opinion of such counsel shall be full and complete protection in respect to any action taken or suffered by such Trustee hereunder in good faith and in accordance with the opinion of such counsel.

When and if a monetary claim or suit is lodged against one or more fiduciaries of the Trust, including the Trustees thereof, in their individual capacities, arising out of their actions as fiduciaries, the Trust may engage and compensate counsel to represent such fiduciary until a final court decision, or a final government agency decision if no court appeal is filed, finds that such fiduciary in his individual capacity (1) has breached his fiduciary obligations under the Employee Retirement Income Security Act; (2) by so doing has caused a loss to the Trust or its corresponding Plan or has gained by use of Trust assets; and (3) is therefore liable in his individual capacity for damages or to return any profit occasioned by such breach to the complaining person, persons, entity or entities.

If the Trust expends moneys for counsel under the preceding paragraph, and the individual liability described therein is so finally determined against one or more fiduciaries, each individual found so liable shall reimburse the Trust for moneys so expended for his counsel.

No provision in this Article shall be construed in its interpretation so as to violate the provisions of Section 410 of the Employee Retirement Income Security Act.

ARTICLE IX

The Trustees, or such other persons as may be properly designated pursuant to Article IX hereof, shall keep accurate and detailed accounts of all investments, receipts, and disbursements and other transactions hereunder, and such accounts, books and records relating thereto shall be open to inspection and audit by the Employers and the Union and by the beneficiaries of the 1974 Pension Trust at all reasonable times at the offices of the 1974 Pension Trust. The Trustees, or such other persons as may be properly designated pursuant to this Article IX shall be responsible for providing participants and beneficiaries under the plan with all information required to be furnished pursuant to the provisions of ERISA or the regulations promulgated thereunder.

For purposes of computing charges to the funding standard account of the Trust, the Trustees shall adopt any actuarial cost or funding method designated by the Employers, including the "short-fall method," and permitted now or hereafter by applicable federal law and federal regulations issued thereunder. The Trustees shall give the Employers notice sixty (60) days prior to the time any such election is required or permitted.

The Trustees, or such other persons as may be properly designated pursuant to this Article IX shall be responsible for maintaining records sufficient to comply with any requirements of ERISA and for the filing of all reports with the Labor Department, Treasury Department, and Pension Benefit Guaranty Corporation which may be required by any provision of ERISA or the regulations issued thereunder, including the plan description and reports specified by Section 101(b). A copy of each document or report provided to plan participants or beneficiaries or filed by the Trustees pursuant to the requirements of ERISA or any other applicable law, governmental rule or regulation shall be sent to the Employers and to the Union unless the right to receive such copy has been waived in writing. The Trustees are authorized to apply for permission to implement an alternative method of satisfying any of the requirements of this Article IX in accordance with Section 110 of ERISA, and, upon receiving the approval of the Labor Department for such alternative method, may utilize such method in lieu of the corresponding requirements of ERISA and of Article IX of this instrument.

The Trustees shall provide the Employers and the Union with such other information and/or documentation as the Employers and the Union may reasonably request within a reasonable time from when such request shall be made.

The Trustees shall provide the Employers and the Union with quarterly reports summarizing all pending litigation involving the Trust and the Plan and describing all significant operational issues that are under review. Within 90 days following the close of each calendar year, or

following the close of each such other annual period as may be adopted by the Trustees, and within 90 days after a Trustee ceases to be a Trustee as provided for in Article II hereof, the Trustees shall file with the Employers and the Union a written report setting forth in such form and detail as they may request the transactions effected by the Trustees during such calendar year or other annual period to the date on which such Trustee's tenure ceases. The annual report shall incorporate the report of an independent certified public accountant and shall be the same as required by Section 103 of ERISA unless the Employers and the Union shall jointly request that additional or supplemental information be incorporated in the report which they receive. Upon the expiration of ninety (90) days from the date of any report to the Employers and the Union, the Trustees shall be forever released and discharged from any liability or accountability to anyone as respects the propriety of their acts or transactions shown in the aforementioned report except as otherwise provided by law or with respect to any acts or transactions as to which the Employers or the Union shall file written objections with the Trustees within such period of ninety (90) days.

The UMWA or the BCOA may audit the accounts, books and records, and operation of the Plan and Trust, at any time and for any reason, upon reasonable notice to the Trustees. The Trustees shall cooperate fully in connection with any such audit and shall make available appropriate personnel and records deemed necessary by the auditors for inspection and copying at reasonable times and places.

The Trustees are hereby authorized to allocate fiduciary responsibilities in any manner permitted pursuant to Section 405(c) of ERISA.

The Trustees may appoint an investment manager or managers to manage any investments held under this instrument as permitted by Section 402(c) of ERISA.

To the extent not inconsistent with the provisions hereof, the Trustees shall comply with the further requirements imposed upon them by and shall have the further powers contained in Article XX, Sections (e), (f), and (g) of the National Bituminous Coal Wage Agreement of 2011, as amended from time to time, and any successor agreements to that specific Agreement.

ARTICLE X

Any action of the Employers which may, or must, be taken hereunder may be taken only by BCOA. Any action which must be taken in writing shall be signed by the President of BCOA. In the event that BCOA ceases to exist, or in the event that more than 50% of the tonnage membership of BCOA on the Effective Date of the 2011 Wage Agreement has withdrawn prior to the time when BCOA is required or permitted to take action under this Article, then such action may be taken by a majority vote, based on tonnage, of existing Employers who were BCOA members on the Effective Date of the 2011 Wage Agreement.

Any Employer who employed any participant eligible for coverage under, or who received or receives benefits under, the 1974 Pension Plan, or any Employer who was or is required to make, or who has made or makes contributions to the 1974 Pension Plan and Trust, is obligated and

required to comply with the terms and conditions of the 1974 Pension Plan and Trust, as amended from time to time, including, but not limited to, making contributions required under the National Bituminous Coal Wage Agreement of 1978, as amended from time to time, and any successor agreements thereto, including, but not limited to, the National Bituminous Coal Wage Agreement of 2011.

ARTICLE XI

The Employers and the Union, by joint action, reserve the right at any time and from time to time to modify or amend in whole or in part any or all of the provisions of this instrument, without reopening or otherwise affecting the integrity of any other provision of the Wage Agreement, by a written agreement between the Employers and Union, provided, however, that such modification or amendment does not permit any part of the corpus or income of the Trust to be used for, or diverted to, purposes other than for the sole and exclusive benefit of the participants and their beneficiaries, and provided further, that the Employers and the Union have delegated to the Trustees the authority and responsibility to make certain changes and amendments as set forth in Article XX(g)(4) of the National Bituminous Coal Wage Agreement of 2011, as amended from time to time, and any successor agreements to that specific Agreement. Any written agreement executed by the Union shall be signed by the International President.

ARTICLE XII

Notwithstanding anything to the contrary contained in this instrument, or any amendment hereto, it shall be unlawful for any part of the 1974 Pension Trust, other than such part as is required to pay taxes and administrative expenses, to be used for, or diverted to, purposes other than for the sole and exclusive benefit of the participants and beneficiaries of the Plan, except that in the case of a contribution which is made by an Employer by a mistake of fact, or law (other than a mistake relating to Plan qualification), such mistaken contribution may be returned to the Employer within six months after the Trustees determine that the contribution was mistakenly made. Monies held by the 1974 Pension Trust do not constitute a part of the deceased beneficiary's estate which can be claimed by his administrator, executor, heirs, or creditors, unless such person or persons are otherwise eligible under the terms and conditions of the Plan, nor are said monies equivalent to the proceeds of an insurance policy in which a beneficiary may be designated; and no participant or beneficiary of the Plan may, during his lifetime, assign, devise or will monies from this Trust, and any attempt so to do shall be void.

Notwithstanding the foregoing, a Participant or beneficiary may make a voluntary, revocable assignment permitted under an arrangement established by the Trustees pursuant to Article VI(15).

To the extent not inconsistent with and permitted by applicable law, governmental rule or regulation, and in such manner as to ensure that the 1974 Pension Plan and Trust is qualified under Section 401 of the Internal Revenue Code and that contributions are deductible under Section 404 of the Internal Revenue Code, the Trustees shall transfer assets or liabilities, or both, of the Trust, in such amounts, at such times and in such manner as the Employers and the Union

may jointly direct, to any other trust qualified under Section 401 of the Internal Revenue Code which provides benefits to persons who at any time were or are participants under the 1974 Pension Plan.

The Employers, the Union, and the Trustees shall fully cooperate to obtain all necessary rulings and do all other acts appropriate to ensure that the 1974 Pension Plan and Trust is qualified under Section 401 of the Internal Revenue Code and that contributions are deductible under Section 404 of the Internal Revenue Code.

Any assets which remain upon termination of the 1974 Pension Plan, after satisfaction of all benefits and liabilities arising under the 1974 Pension Plan and 1974 Pension Trust in a manner consistent with the principles of Section 4044 of ERISA, shall be distributed as may be mutually agreed upon by the Employers and the Union.

ARTICLE XIII

This instrument shall be construed, regulated and administered under Federal law and, to the extent not preempted or inconsistent with such Federal law, the laws of the District of Columbia.

IN WITNESS WHEREOF, the Employers and the Union, pursuant to proper authority, have caused this instrument, effective December 6, 1974, and amended as of July 1, 2011, to be signed by their proper officers or representatives on this 31st day of December, 2012.

UNITED MINE WORKERS OF AMERICA

International President

BITUMINOUS COAL OPERATORS' ASSOCIATION, INC.

President

EXHIBIT "B" to
MOTION TO INTERVENE BY THE UMWA PLANS

Accepted by:

Dated: 1-29-13

Trustee

Dated: 1/29/2013

Trustee

Dated: 1/29/2013

Trustee

Dated: 1/29/2013

Trustee

EXHIBIT "B" to
MOTION TO INTERVENE BY THE UMWA PLANS

EXHIBIT C

Paul Green

From: Paul Green
Sent: Friday, March 15, 2013 5:22 PM
To: Marshall S. Huebner (marshall.huebner@davispolk.com); Benjamin S. Kaminetzky (ben.kaminetzky@davispolk.com)
Cc: John Goodchild
Subject: 1974 Pension Plan Withdrawal Liability
Attachments: Withdrawal liability_001.pdf

Marshall and Ben,

We understand that there is a misimpression over the impact of a withdrawal by Patriot from the UMWA 1974 Pension Plan. We understand that Patriot believes that it would be permitted to satisfy its withdrawal liability by making annual $26 million payments. As explained in the attached letter to the Creditors' Committee, a withdrawal would result in a claim currently estimated to be close to a billion dollars, jointly and severally, against all of the debtors and payment in installments is not an option.

Thanks. I'm sure this subject will come up again.

Paul

Paul A. Green
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Washington, DC 20036
202-783-0010
(Fax) 202-783-6088
pgreen@mooneygreen.com
www.mooneygreen.com

EXHIBIT "C" to
MOTION TO INTERVENE BY THE UMWA PLANS

UMWA HEALTH AND RETIREMENT FUNDS
2121 K Street, NW • Suite 350 • Washington, DC 20037 • Telephone: 202.521.2200

March 14, 2013

Thomas Moers Mayer, Esq.
Kramer Levin Naftalis & Frankel LLP
1177 Avenue of the Americas
New York, New York 10036

Dear Tom:

We believe it is important to clear up several misunderstandings that have developed over the manner and amount of withdrawal liability that Patriot Coal and its related entities ("Patriot") would have to pay in the event of a withdrawal from the United Mine Workers of America 1974 Pension Plan ("1974 Plan"). More specifically, two misconceptions have arisen regarding this matter. First, it has been suggested that Patriot would have the option of paying its withdrawal liability in annual installments amounting to approximately $26 million. Second, even if it did not pay these installments, that Patriot would have the ability to reduce the 1974 Plan's claim from the full amount of Patriot's withdrawal liability (which has been tentatively estimated at $960 million for a withdrawal during the current plan year) to the discounted present value of the stream of installment payments. As explained below, both of these concepts are erroneous.

As you are aware, under ERISA Section 4219(c)(1)(a)(i) and (c)(1)(A), an employer that withdraws from a multiemployer pension plan is permitted to pay its withdrawal liability in installments, the amount of which is determined by a statutory formula. Although the duration of these payments is generally limited to twenty years, that twenty-year limitation does not apply to the 1974 Plan. ERISA Section 4211(d)(2). Patriot's assumption that it would be permitted to pay its withdrawal liability in installments is, however, mistaken.

ERISA Section 4219(c)(5) provides that, in the event of a "default" by a withdrawn employer, "a plan sponsor may require immediate payment of the outstanding amount of an employer's withdrawal liability . . . ." That same section goes on to define a default as either the employer's failure to make-up any past due payments within 60 days of demand or "any other event defined in rules adopted by the plan which indicates a substantial likelihood that an employer will be unable to pay its withdrawal liability." Long before Patriot was established, the Trustees adopted a resolution defining additional instances of default. These include "insolvency," any "pledge, mortgage or hypothecation by the employer of property to the extent which the Trustees determine to be material in relation to the financial condition of the employer," "bankruptcy," and "the employer's engaging in a transaction which has a principal purpose the avoidance or evasion of withdrawal liability demanded by the Plan . . . ." Furthermore, the rule adopted by the Trustees was reviewed and upheld by the United States Court of Appeals for the District of Columbia Circuit. *Connors v. B&H Trucking*, 817 F.2d 132, 137 (D.C. Cir. 1989). In this case, each of these four elements of default has been triggered.

EXHIBIT "C" to
MOTION TO INTERVENE BY THE UMWA PLANS

I understand that you have previously contended that such a default may be cured under a debtors' plan of reorganization. This is incorrect for several reasons. First, we do not agree that the Bankruptcy Code's "cure" provisions apply to this type of default. The provisions in the statute contemplate a contractual default, not a default under a statutory obligation. Furthermore, the PBGC has specifically authorized use of an employer's bankruptcy as a default trigger, something that would not have made sense if such a default could be set aside. 49 FR 22642 (May 31, 1984) ("In terms of a plan's authority to declare a default . . . the regulation distinguishes between an employer's failure to make a payment and a plan determination that there is a substantial likelihood of the employer's inability to pay its total withdrawal liability. Such a substantial likelihood would exist, for example, when an employer declares bankruptcy . . . .") Second, one of the instances of default was Patriot's granting of liens on its property in its DIP credit facility. It is highly unlikely that Patriot is in a position to cure this default. Finally, a default may have also occurred with the efforts by both Peabody and Arch to "avoid or evade" withdrawal liability when they disposed of their subsidiaries that contributed to the 1974 Plan. We are not aware of any provision of the Bankruptcy Code that permits a debtor to cure a default by a non-party to the proceeding.

Even assuming that it were possible to "cure" the default in the payment of withdrawal liability, the second assumption, that the 1974 Plan's claim could be reduced to the discounted present value of the stream of installments is unfounded. ERISA clearly requires that, if an employer is in default, the entire amount of its withdrawal liability is immediately due and owing. You have, of course, recognized that, because of the ERISA joint and several liability provision for control group members, this liability runs to all of the Debtor entities and is not limited to the organized subsidiaries. There is no provision of ERISA, Bankruptcy law or relevant non-Bankruptcy law that would permit the setting aside of any sort of liability in this manner, let alone a *statutory liability.*

Sincerely,

David W. Allen
General Counsel

EXHIBIT "C" to
MOTION TO INTERVENE BY THE UMWA PLANS

EXHIBIT D

EXHIBIT 4

EXHIBIT "D" to
MOTION TO INTERVENE BY THE UMWA PLANS

SECTION 1113 PROPOSAL

NOVEMBER 15, 2012

CONTENTS

TAB A

PROPOSED CHANGES TO LABOR AGREEMENTS*
BETWEEN THE
UNITED MINE WORKERS OF AMERICA
AND
HERITAGE COAL COMPANY, LLC
EASTERN ASSOCIATED COAL, LLC
APOGEE COAL COMPANY, LLC
HOBET MINING, LLC

* Subject to certain Memoranda of Understanding, each of these companies is signatory to a "me-too" agreement which adopts the provisions of the National Bituminous Coal Wage Agreement of 2011.

2011 COAL WAGE AGREEMENT PROPOSALS

Apogee Coal Company, LLC
Eastern Associated Coal, LLC
Heritage Coal Company, LLC
Hobet Mining, LLC

The provisions of each company's current Coal Wage Agreement would continue unchanged, except as provided below.

Article I. Enabling Clause

1. Modify to limit application of the contract to the geographic boundaries of the operation, as provided in the Gateway Agreements. Include a description of the boundaries of the mine and related reserves that are covered by the Agreement.

Article IA. Scope and Coverage

1. Modify Section (c), which limits supervisors from performing classified work, to provide that supervisors may perform work of a classified nature so long as it does not exceed one hour during a shift.
2. Modify Section (g) (contracting and subcontracting), which limits the use of virtually any contractors on the jobsite, to provide that non-bargaining unit workers can be used to (i) provide fill-ins for temporary vacancies, (ii) perform short term projects, (iii) perform repair and maintenance work, and (iv) perform any and all work at closed operations.
3. Modify Section (g) to also eliminate requirements that the employer must not have available equipment or regular Employees (including laid-off Employees) with necessary skills available to perform the work before non-bargaining unit workers may be utilized (i.e., eliminate any "Double Back" requirement).
4. Modify Section (i) (construction work) to clarify that all construction work can be contracted out, without regard to whether it may have been performed by classified Employees in the past.

Article II. Job Opportunity and Benefit Security

1. Delete this Article which is not included in the Gateway Agreements, which among other things, provides for (i) job rights at the signatory company's non-union operations and at signatory operations leased or licensed out to another company, and (ii) requires contributions to several industry-wide trust funds.

Article III. Health and Safety

1. Modify Section (m) (safety equipment and protective clothing allowance) to provide that the employer may provide uniforms in lieu of paying the annual clothing allowance required under the current Agreement.

Article IV. Wages and Hours

1. Section (a) requires overtime be paid after 8 hours in a day, and in some cases after 7¼ hours. Section (e) requires double time rates for overtime on Saturday, and Sunday work and triple time rates for work on holidays. Modify this Article as necessary to provide that all overtime will be paid at time and one half, and only for hours actually worked beyond 40 hours during a week, including work beyond 40 hours in the week which occurs on Saturdays, Sundays and holidays (i.e., eliminate all references to premium pay). Amend all provisions of the Agreement to conform to this change.
2. Modify current wage rates as provided in Attachment 1, and provide the Company with the ability to increase (or subsequently decrease) hourly wage rates for any job classification during the term of the Agreement, provided that hourly wage rates may not be decreased below the base hourly wage rates established by the Agreement.
3. Section (c) authorizes the Employer to introduce alternate work schedules only if agreed to by the local union. Revise to provide that the employer may, with seven (7) days notice, implement an alternate work schedule for the entire operation, for a particular wage classification, or for individual employees. Absent seven (7) days notice, the current schedule at the operation will remain in place. Delete the requirement that the local union must agree before the employer may implement an alternate work schedule.

Article V. Helpers on Face Equipment in Underground Mines

1. Delete this Article, which mandates the assignment of a full time helper on continuous mining machines and roof bolters. Helpers are not required in the Gateway Agreements. Helpers will be assigned as needed, at management's discretion.

Article VI. Shifts and Shift Differentials

1. Delete this Article, which requires that Employees working on the afternoon shift be paid an extra $0.50 per hour, and that Employees on the midnight shift be paid an extra $0.60 per hour.

Article VIII. Starting Time

1. Section (b) requires the starting time be in accordance with prior practice and custom. Modify to permit management to implement staggered starting times if necessary.
2. Section (e) permits management to change crews at the face. Clarify to provide that any and all crews may be changed out at the location where work is being performed.

Article IX. Allowances

1. Modify Section (e), which currently provides for six (6) personal or sick days per year, to provide for three (3) personal or sick days per year. Personal or sick days not used will be paid out at the end of the year; the current language that permits an employee to carry personal or sick days into the next calendar year will be discontinued.

Article X. Wage Increase

1. Eliminate the $1.00 per hour wage increase scheduled for January 1, 2013 and eliminate the $1.00 per hour wage increase scheduled for January 1, 2014. Reduce the currently scheduled wage increases effective on January 1, 2015 and January 1, 2016 from $1.00 per hour to $0.50 per hour. Provide $0.50 per hour wage increase on January 1, 2017 and provide $0.50 per hour wage increase on January 1, 2018

Article XII. Holidays

1. Modify Section (a) to provide for eight (8) holidays, instead of the eleven (11) that are currently provided by eliminating the April 1, Veteran's Day and Employee's Birthday holidays.
2. Modify Section (b) (Sunday Holidays) to provide that a holiday shall be observed on the calendar day it falls.
3. Modify Section (c) (Monday Holidays) to provide that scheduled work on Saturday prior to a Monday holiday is mandatory.
4. Modify Section (d) to provide that the employee shall be paid at his regular hourly rate, not triple time, for all hours worked if he or she works on a holiday. He or she will also receive Holiday Pay, if eligible.
5. Modify Section (e) to provide that all underground employees shall receive eight (8) hours pay at the regular straight time rate as Holiday Pay and that all outside employees shall receive seven and one-quarter (7 ¼) hours of pay at the regular straight time rate as Holiday Pay, provided the employee was not absent, unexcused, on the last scheduled shift prior to or the first scheduled shift after the holiday.
6. Modify Section (f) to eliminate the Employee's option to designate another day to take off if the holiday falls during a vacation period or on a day when he is not scheduled to work.

Article XIII. Regular Vacation

1. Modify Section (a) and Section (d) to eliminate the requirement for fourteen (14) consecutive days of regular vacation with twelve (12) days pay. Provide instead for ten (10) days of regular vacation per year with ten (10) days pay, earned on a pro rata basis from January 1 through December 21, and further provide that days must be used in coordination with vacation shut down periods as provided in the Gateway contracts.
2. Modify Sections (b) and (d) to provide for three vacation shut down periods: (1) week of July 4th; (2) week of Thanksgiving; and (3) week of Christmas as provided in the Gateway contracts.
3. Modify Section (e), which provides for four (4) floating vacation days, to provide for two (2) floating vacation days. Revise this Section to provide that days not used will be paid after the end of the year, and may not be carried over into a subsequent year.

Article XIV. Graduated Vacation

1. Revise Section (a), which currently provides Employees with at least five (5) years of employment with the Employer receive additional (graduated) days of vacation on a

sliding scale of 1 to 14 days, to establish that after five (5) years of continuous employment with the Employer each Employee shall be entitled to five (5) graduated vacation days. Additional years of service will not result in additional graduated vacation days. If an Employee's hire date is before July 1, the Employee will receive five (5) graduated vacation days at the beginning of the year in which the fifth anniversary of employment begins. If hire date is after June 30, the Employee will receive five (5) graduated vacation days at the beginning of the year which follows the fifth anniversary of employment. Days not used will be paid after the end of the year.

Article XX. Health, Retirement and Other Benefits

1. Consistent with the Gateway contracts, delete Article XX in its entirety, including, among other things:
   (i) the obligation to contribute $5.50 per hour worked to, and to participate in, the UMWA 1974 Pension Plan
   (ii) the obligation to contribute $1.10 per hour worked to, and to participate in, the UMWA 1993 Benefit Plan
   (iii) the obligation to contribute $1.50 per hour worked to, and to participate in, the UMWA 2012 Retiree Bonus Account Trust
   (iv) the obligation to provide retiree health benefits to any former, current or future employee.
2. Modify and amend the current health benefit plan for active employees as set forth in Attachment 2. Among other things, the revised health plan will provide for:
   (i) 90/10 coverage (same coverage as the health care plan to be provided for Patriot's subsidiaries' salaried and non-union hourly employees), and
   (ii) a monthly pre-tax employee contribution toward the cost of health care, and
   (iii) non-coverage of spouses who do not enroll in available health care plans provided by their employer, and
   (iv) coordination of benefits for covered spouses who do enroll in available health care coverage provided by their employer, and
   (v) monthly contribution (premium) reductions for employees with covered spouses who enroll in available health care coverage provided by their employer
3. Modify and amend the current health benefit plan to specify employer-provided medical coverage will continue for sixty (60) calendar days after the date an employee is laid off, rather than for the balance of the current month plus up twelve additional months of continuing coverage.
4. Eliminate the requirement that the Company maintain a retiree health care plan and eliminate the requirement that the Company provide health care benefits for retirees.
5. Modify the current Agreement to add a new provision that requires the Employer to make a contribution into each working miner's personal account in a company sponsored 401(k) plan, or, in the alternative, make such contributions to the UMWA Cash Deferred Savings Plan. The contribution shall be 6% of each dollar earned in wages for hours actually worked by the miner.

Article XXB. UMWA Cash Deferred Savings Plan of 1988

1. Modify Section (d) and other sections in this Article as appropriate to:

(i) terminate the obligation to contribute to the UMWA Cash Deferred Savings Plan (CDSP) on behalf of new inexperienced miners hired after January 1, 2007, including the current requirement to contribute $1.00 per hour worked by such Employees

(ii) terminate the obligation to make contributions to the CDSP on behalf of new inexperienced miners hired after January 1, 2012 who are not eligible to participate in the UMWA 1974 Pension Plan, including the current requirement to contribute $1.00 per hour worked by such Employees

(iii) terminate the obligation to make contributions to the CDSP on behalf of participants in the UMWA 1974 Pension Plan who opt out of continued participation in the UMWA Pension Plan, including the current requirement to contribute $1.00 per hour worked by such Employees

(iv) terminate the obligation to make contributions to the CDSP on behalf of employees who have 20 years of credited service under the UMWA Pension Plan, including the current requirement to contribute $1.00 per hour worked by such Employees

Article XXII. Miscellaneous

1. Modify Section (i) Attendance Control Program to provide that (a) two unexcused absences in 30 calendar days, or three unexcused absences in 180 calendar days or four unexcused absences in 360 calendar days is just cause for discharge; and (b) that the employer may implement or revise a Chronic & Excessive Absentee Program.
2. Section (s) Bonus Plans restricts an Employer's right to implement bonus plans unless approved by a majority vote of the local union. Modify this Section to provide that the employer may initiate, modify and terminate bonus plans unilaterally, as provided in the Gateway Agreements.
3. Delete Section (j) Memorial Periods which grants the Union a right to designate Memorial Periods which effectively shut down operations for up to ten (10) days during the term of the Agreement.
4. Add a new section that establishes a forty-five (45) day probationary period for newly employed personnel, as provided in the Gateway Agreements.

Article XXIII. Settlement of Disputes

1. Modify Section (h) Finality of Settlements to provide that the provisions of this Agreement supersede and make void any settlements, arbitration decisions or other agreements that are in any manner inconsistent with or in conflict with concepts, intentions and changes of this Agreement. Such settlements, arbitration decisions and/or agreements include, but are not limited to:
    a) Double Back Policy and 10% Chronic and Excessive Absenteeism threshold at Eastern's Federal #2 Mine
    b) Requirement to maintain a specific number of employees to perform work at closed operations
    c) Restrictions against use of contractors for periodic sump and pond cleaning

Article XXVI. District Agreements

1. Clarify Section (b) to provide that this Agreement supersedes any prior practice or custom or local, district or international agreement that is in any manner inconsistent with or in conflict with the concepts or intentions of this Agreement.

Article XXIX. Ratification and Termination of This Agreement

1. Make the termination date of the Agreement December 31, 2018.

Other Matters

1. Modify all contract language as necessary and appropriate to be consistent with the concepts, intentions and changes set forth herein.
2. All unresolved grievances that assert violation of contractual provisions made void, modified or eliminated are withdrawn.
3. No grievances may be filed that claim violation of contractual provisions made void, modified or eliminated by this proposal.

MOU REGARDING JOB OPPORTUNITIES

1. Terminate this MOU, which requires certain non-union subsidiaries of Patriot Coal to offer jobs to the employees of the signatory companies before hiring employees of their own choosing.

ATTACHMENT 1
TO TAB A

Wage Rates

1. No proposed reduction to 2012 Underground at Deep Mine Standard Hourly Wage Rate.

2. Reduce Strip and Auger Mines rates to conform generally to rates paid at Strip and Auger Mines operated by non-union subsidiaries of Patriot.

Current NBCWA Pay Grade	Current 2012 NBCWA Standard Hourly Wage Rate	Proposed Pay Grade	Proposed Job Titles within Proposed Pay Grade	Proposed Standard Hourly Wage Rate
Grade 5	$27.178	Grade 5	Master Electrician	$30.00
Grade 4	$26.527	Grade 4	Dragline Operator, Electrician, Mechanic	$26.00
Grade 3	$26.162	Grade 3	Loader (Production or Coal), Excavator (Production), Dozer (Production), Shovel Operator	$24.00
Grade 2	$25.877	Grade 2	Welder, Shovel or Dragline Oiler, Blaster/Shooter	$22.00
Grade 1	$25.796	Grade 1	Driller, Grader, Serviceman, Groundman, Truck (Rock, Coal, Water), Heavy Equipment Operator, Loader or Dozer (Non-Production), Steam Jenny	$20.00

3. Reduce Preparation Plant and Other Surface Facilities For Deep or Surface Mines rates to conform generally with rates paid at Preparation Plant and Other Surface Facilities for Deep or Surface Mine operated by non-union subsidiaries of Patriot, with the exception that current NBCWA rates for Grade 4 Job Titles for Electrician, Mechanic and Machinist are not reduced below 2012 rates

Current NBCWA Pay Grade	**Current 2012 NBCWA Standard Hourly Wage Rate**	**Proposed Pay Grade**	**Proposed Job Titles within Proposed Pay Grade**	**Proposed Standard Hourly Wage Rate**
Grade 4	$26.364	Grade 4	Diesel Mechanic, Mechanic, Electrician/Mechanic, Electrician, Electrician Lineman	$26.364
Grade 3	$26.120	Grade 3	Plant Operator, Welder 1st Class, Welder Pipefitter, Repairman- Radio	$24.00
Grade 2	$25.837	Grade 2	Beltline Mechanic, Dozer Operator, Loader Operator, Heavy Equipment Operator, Heavy Media Operator, Loadout Operator, Stationary Equipment Operator, Truck Driver, Wet Plant Operator	$23.00
Grade 1	$25.757	Grade 1	Bathhouse Attendant, General Laborer, Utility Person, Sampler	$20.00

ATTACHMENT 2
TO TAB A

Healthcare Benefits for Active Employees

1) Article XX (Health, Retirement and Other Benefits) of the 2011 NBCWA is deleted in its entirety.

2) The signatory employers will provide health benefits to all active employees as follows:

   a) Health benefits for employees at the signatory mines will be in accordance with the plan design summarized on Exhibit A of this Attachment which shows a comparison of the existing plan design to the modified plan design.

   b) Employees will be responsible for paying a portion of the cost of health care in the form of monthly premiums equal to 10 % of the predicted average cost of health care under the plan. Separate premiums will be developed for the following coverage classifications: Employee Only; Employee + One; Employee + Family. Such premium amounts will be withheld through direct pre-tax payroll deductions. The premiums will be determined through actuarial analysis and will be subject to change annually, increasing or decreasing, depending upon the actual plan experience as compared to the prior year's actuarial projections. The monthly premiums for 2013 are as follows:

      i) Employee Only: $68.58
      ii) Employee + One: $140.48
      iii) Employee +Family: $213.00

   Employees with covered spouses who are enrolled in a medical insurance plan provided by their employer will receive a $50 per month premium discount

   Working spouses who do not enroll in a medical insurance plan available to them from their employer are not covered under this health care plan.

   The employer will provide a prescription drug benefit that includes availability to a large and sufficient enough range of medications to allow health care practitioners to prescribe appropriate medical treatment.

3) The Employer reserves the exclusive right to change or modify its health plan as follows:

   a) To adopt, change or modify managed care programs and/or cost containment programs that do not impose material additional costs or benefit reductions on plan participants, provided participants are provided thirty (30) days advance notice of such changes

   b) To change carriers or plan administrators or otherwise make changes to plan administration that do not impose material additional costs or benefit reductions on plan participants without prior notice

c) To require participants to enroll in or otherwise receive benefits from plans or programs currently available or that may become available during the term of this Agreement from the government or other public sources, provided participants are provided thirty (30) days advance notice of such changes

d) To amend or modify the level of benefits provided by the Plan, and/or to increase the cost participants are required to pay to receive benefits from the Plan on each anniversary date of the Agreement, if the per-beneficiary cost to the Employer of providing benefits under the Plan exceeds five (5) percent of the per-beneficiary cost to provide benefits under the Plan as of the effective date of the Agreement, provided however, that such changes shall not be greater than reasonably required to maintain the cost to the Employer at the per-beneficiary cost as of the effective date of the Agreement.

4) At least thirty (30) days prior to implementing changes to the Plan pursuant to paragraph 3(d) the Employer shall meet with representatives of the Union to review the Plan's experience, to share claims and cost data, and to discuss the changes proposed by the Employer. The Employer shall consider any proposals and recommendations offered by the Union to attain the cost reductions necessary to maintain the per-beneficiary cost at the level in effect on the effective date of the Agreement. After considering such proposals and recommendations, the Employer may, at its sole discretion, implement such changes as it deems necessary to maintain the per-beneficiary cost to the Employer of providing benefits under the Plan at the level in effect on the effective date of the Agreement.

5) If local, state or federal government, or any governmental agency, implements any program or law or regulation which makes available to any or all of the Employees of the Company any service, procedure or benefit (including health care coverage under Nation Health Care Reform Exchanges) that is also covered or provided under this health care plan, or any amended health care plan, then such Employee or beneficiaries or dependents may be required by the company to obtain such service, procedure or benefit from the government or agency and not from the Company, provided that any additional cost incurred by the Employee as a result of the difference in cost charged for service or procedure or benefit itself (relative to the cost under this Plan) is reimbursed to Employee by the company. Prior to any such requirement, the Employer and the UMWA agree to meet and discuss implementation of any such requirement.

6) Active represented employees will not be eligible for any type of employer provided retiree health care program.

7) Should a dispute arise during the term of this Agreement concerning the interpretation or implementation of this Reservation of Rights clause, or any Employer action taken pursuant to this clause, such dispute shall be resolved by the U. S. District Court for the Eastern District of Virginia, and shall not be subject to arbitration or any dispute resolution process under the Agreement or the Plan.

Exhibit A

Medical Plan Design Summary		
	Current UMWA Represented Active Employee Plan Design	**Proposed UMWA Represented Active Employee Plan Design**
Coinsurance		
In-Network	0%	10%
Out-of-Network	10%	30%
Deductible		
Individual In Network	$0	$250
Family In Network	$0	$250 per person
Individual Out of Network	$0	$250
Family Out of Network	$0	$250 per person
Co-Pay		
Primary Care Physician In Network	$12	$20
Specialist In Network	$12	$35
Primary Care Physician Out of Network	$20	$20
Specialist Out of Network	$20	$50
Inpatient/Outpatient Services		
In-Network	0%	10%
Out-of-Network	10%	30%
Maximum Out-of-Pocket		
Individual In Network	$240	$2,000
Family In Network	$240	$4,000
Individual Out of Network	$1,600	$2,000
Family Out of Network	$1,600	$4,000
Other		
Hospital Pre-Cert Penalty	$300	$0
Hearing Care	One hearing aid per ear every 2 years if Medically Necessary	In-Network - 80% after deduct ble satisfied - 1 hearing aid per ear every 2 years
Prescription Drugs Retail (30 Day Supply)	**Employee Co-Pay**	**Employee Co-Pay**
Generic	$5	$5.00
Preferred Brand	$5	30% ($25, $50)
Non-preferred Brand	$5	50% ($75, $200)
Prescription Drugs Mail (90 Day Supply)	**Employee Co-Pay**	**Employee Co-Pay**
Generic	Free	$10.00
Preferred Brand	Free	30% ($50, $100)
Non-preferred Brand	Free	50% ($150, $400)

EXHIBIT "D" to
MOTION TO INTERVENE BY THE UMWA PLANS

TAB B

PROPOSED CHANGES TO COAL WAGE
AGREEMENT
BETWEEN THE
UNITED MINE WORKERS OF AMERICA
AND
HIGHLAND MINING COMPANY, LLC

EXHIBIT "D" to
MOTION TO INTERVENE BY THE UMWA PLANS

HIGHLAND MINING COMPANY, LLC PROPOSAL

The provisions of the current Coal Wage Agreement and amending agreements would continue unchanged, except as provided below.

Article I. Enabling Clause

1. Modify to limit application of the contract to the geographic boundaries of the operation, as currently provided in the Gateway Agreements. Include a description of the boundaries of the mine and related reserves that are covered by the Agreement.

Article IA. Scope and Coverage

1. Modify Section (e), which limits supervisors from performing any classified work, to provide that supervisors may perform work of a classified nature so long as it does not exceed one hour during a shift.
2. Modify Section (g) (contracting and subcontracting), which limits the use of virtually any contractors on the jobsite, to provide that non-bargaining unit workers can be used to (i) provide fill-ins for temporary vacancies, (ii) perform short term projects, (iii) perform repair and maintenance work, and (iv) perform any and all work at closed operations
3. Modify Section (g) to also eliminate requirements that the employer must not have available equipment or regular Employees (including laid-off Employees) with necessary skills available to perform the work before non-bargaining unit workers may be utilized (i.e., eliminate any "Double Back" requirement).
4. Modify Section (i) (construction work) to clarify that all construction work can be contracted out, without regard to whether it may have been performed by classified Employees in the past.

Article II. Job Opportunity and Benefit Security

1. Delete this Article which is not included in the Gateway Agreements, which among other things, provides for (i) job rights at the signatory company's non-union operations and at signatory operations leased or licensed out to another company, and (ii) requires contributions to several industry-wide trust funds.

Article III. Health and Safety

1. Modify Section (m) (safety equipment and protective clothing allowance) to provide that the employer may provide uniforms in lieu of paying the annual $290 clothing allowance required under the current Agreement.

Article IV. Wages and Hours

1. Section (b) requires overtime be paid after 8 hours in a day, and in some cases after 7¼ hours. Section (e) requires double time rates for Saturday overtime and Sunday work and triple time rates for work on holidays. Modify in this Article as necessary to provide that all

EXHIBIT "D" to
MOTION TO INTERVENE BY THE UMWA PLANS

overtime will be paid at time and one half, and only for hours actually worked beyond 40 hours during a week, including work on Saturdays, Sundays and holidays (i.e., eliminate all references to premium pay). Amend all provisions of the Agreement to conform to this change.

2. Maintain Highland's current 2012 wage rates and provide Company with the ability to increase (and subsequently decrease) hourly wage rates for any job classification during the term of the Agreement, provided that hourly wage rates may not be decreased below the base hourly wage rates established by the Agreement.
3. Maintain current Local Agreement regarding sharing of Idle Day and Overtime work
4. Section (c) authorizes the employer to introduce alternate work schedules only if agreed to by the local union. Revise to provide that the employer may, with seven (7) days notice, implement an alternative work schedule for the entire operation, a particular wage classification or individual employees. Absent seven (7) days notice, the current schedule at the operation will remain in place. Delete the requirement that the local union must agree before the employer may implement an alternate work schedule.

Article V. Helpers on Face Equipment in Underground Mines

1. Delete this Article, not contained in the Gateway Agreements, which mandates the assignment of a full time helper on continuous mining machines and roof bolters. Helpers will be assigned as needed, at management's discretion.

Article VI. Shifts and Shift Differentials

1. Delete this Article, which requires that Employees working on the afternoon shift be paid an extra $0.40 per hour, and that Employees on the midnight shift be paid an extra $0.50 per hour.

Article VIII. Starting Time

1. Section (e) permits management to change crews at the face. Clarify to provide that any and all crews may be changed out at the location where work is being performed.

Article IX. Allowances

1. Modify Section (e), which currently provides for five (5) personal or sick days per year to provide for three (3) personal or sick days per year. Days not used will be paid after the end of the year; the current language that permits an employee to carry over personal or sick days into the next calendar year will be discontinued.

Article X. Wage Increase

1. Eliminate the $1.25 per hour wage increase scheduled for July 1, 2013. Eliminate the $1.25 per hour wage increase scheduled for July 1, 2014. Maintain wages through June 30, 2015 at Highland's current 2012 rates.

2. Provide an increase of $0.50 per hour on July 1, 2015; provide an increase of $0.50 per hour on July 1, 2016; provide an increase of $0.50 per hour on July 1, 2017; and provide an increase of $0.50 per hour on July 1, 2018.

Article XII. Holidays

1. Modify Section (a) to provide for eight (8) holidays instead of the eleven (11) that are now provided by eliminating the April 1, Veteran's Day and Employee's Birthday holidays.
2. Modify Section (b) (Sunday holidays) to provide that a holiday shall be observed on the calendar day it falls.
3. Modify Section (c) (Monday holidays) to provide that scheduled work on Saturday prior to a holiday is mandatory
4. Modify Section (d) to provide that the employee shall be paid at his regular hourly rate, not triple time, for all hours worked if he or she works on a holiday. He or she will also receive Holiday Pay, if eligible.
5. Modify Section (e) to provide that all underground employees shall receive eight (8) hours pay at the regular straight time rate as Holiday Pay and that all outside employees shall receive seven and one-quarter (7 ¼) hours of pay at the regular straight time rate as Holiday Pay, provided the employee was not absent, unexcused, on the last scheduled shift prior to or the first scheduled shift after the holiday.
6. Modify Section (f) eliminate the Employee's option to designate another day to take off if the holiday falls during a vacation period or on a day when he is not scheduled to work.

Article XIII. Regular Vacation

1. Modify Section (a) and Section (d) to eliminate the requirement for fourteen (14) consecutive days of regular vacation with twelve (12) days pay. Provide instead for ten (10) days of regular vacation per year with ten (10) days pay, earned on a pro rata basis from January 1 through December 21, and further provide that days must be used in coordination with vacation shut down periods, as provided in the Gateway contracts.
2. Modify Sections (b) and (d) to provide for three vacation shut down periods: (1) week of July 4th; (2) week of Thanksgiving; and (3) week of Christmas, as provided in the Gateway contracts.
3. Modify Section (e), which currently provides for four (4) floating vacation days, to provide for two (2) floating vacation days. Revise to provide that days not used will be paid after the end of the year, and may not be carried over into a subsequent year.

Article XIV. Graduated Vacation

1. Revise Section (a), which currently provides Employees with at least five (5) years of employment with the Employer receive additional (graduated) days of vacation on a sliding scale of 1 to 14 days, to establish that after five (5) years of continuous employment with the Employer each Employee shall be entitled to five (5) graduated vacation days. Additional years of service will not result in additional graduated vacation days. If an Employee's hire date is before July 1, the Employee will receive five (5) graduated vacation days at the beginning of the year in which the fifth anniversary of employment begins. If hire date is after June 30, the Employee will receive five (5)

graduated vacation days at the beginning of the year which follows the fifth anniversary of employment. Days not used will be paid after the end of the year.

Article XX. Health, Retirement and Other Benefits

1. Consistent with the Gateway contracts, delete Article XX in its entirety, including, among all other things:
   (i) the obligation to contribute $5.50 per hour worked to, and participate in, the UMWA 1974 Pension Plan
   (ii) the obligation to contribute $0.50 per hour worked to, and participate in, the UMWA 1993 Benefit Plan
   (iii) the obligation to provide retiree health benefits to any former, current or future employee.
2. Modify and amend the current health benefit plan as set forth in Attachment 1. Among other things, the revised health plan will provide for:
   (i) 90/10 coverage (same coverage as the health care plan to be provided for Patriot's subsidiaries' salary and non-union hourly employees), and
   (ii) a monthly pre-tax employee contributions toward the cost of health care, and
   (iii) non-coverage of spouses who do not enroll in available health care plans provided by their employer, and
   (iv) coordination of benefits for covered spouses who do enroll in available health care coverage provided by their employer, and
   (v) monthly contribution (premium) reductions for employees with covered spouses who enroll in available health care coverage provided by their employer
3. Modify and amend the current health benefit plan to specify employer-provided medical coverage will continue for sixty (60) calendar days after the date an employee is laid off, rather than the balance of the current month plus up to twelve (12) additional months of continuing coverage.
4. Eliminate the requirement that the Company maintain a retiree health care plan and eliminate the requirement that the Company provide health care benefits for retirees.
5. Modify current Agreement to add a new provision that requires the Employer to make a contribution into each working miner's personal account in a company sponsored 401(k) plan, or, in the alternative, make such contributions to the UMWA Cash Deferred Savings Plan. The contribution shall be 6% of each dollar earned in wages for hours actually worked by the miner.

Article XXB. UMWA Cash Deferred Savings Plan of 1988

1. Modify Section (d) and other sections in this Article as appropriate to terminate the obligation to make contributions to the UMWA Cash Deferred Savings Plan (CDSP) on behalf of new inexperienced miners hired after January 1, 2007.

Article XXII. Miscellaneous

1. Modify Section (i) Attendance Control Program to provide that (a) two unexcused absences in 30 calendar days or three unexcused absences in 180 calendar days or four

unexcused absences in 360 calendar days is just cause for discharge; and (b) that the employer may implement or revise a Chronic & Excessive Absentee Program.

2. Section (s) Bonus Plans restricts an Employer's right to implement bonus plans unless approved by a majority vote of the local union. Modify this Section to provide that the employer may initiate, modify and terminate bonus plans unilaterally.
3. Delete Section (j) Memorial Periods which grants the Union a right to effectively shut down operations up to ten (10) days during the term of the Agreement.
4. Add a new section that establishes a forty-five (45) day probationary period for newly employed personnel.

Article XXIII. Settlement of Disputes

1. Modify Section (h) Finality of Settlements to provide that the provisions of this Agreement supersede any settlements, arbitration decisions or other agreements that are in any manner inconsistent with or in conflict with the changes, concepts or intentions of this Agreement.

Article XXVI. District Agreements

1. Clarify Section (b) to provide that this Agreement supersedes any prior practice or custom or local or district agreement that is in any manner inconsistent with or in conflict with the changes, concepts or intensions of this Agreement.

Article XXIX. Ratification and Termination of This Agreement

1. Make the termination date of the Agreement December 31, 2018.

Other

1. Maintain current Letter Agreement in Highland Agreement regarding Skills Enhancement
2. Maintain Appendix F of current Highland Agreement — Consolidated Classifications
3. Modify all contract provisions and language as necessary and appropriate to be consistent with the changes, concepts or intentions of set forth herein.
4. All unresolved grievances that assert violation of contractual provisions made void, modified or eliminated are withdrawn.
5. No grievances may be filed that claim violation of contractual provisions made void, modified or eliminated by this proposal.

MOU REGARDING JOB OPPORTUNITIES.

Terminate this MOU, which requires certain non-union subsidiaries of Patriot Coal to offer jobs to employees of the signatory companies before hiring employees of their own choosing.

ATTACHMENT 1
TO TAB B

Healthcare Benefits for Active Employees

1) Article XX (Health, Retirement and Other Benefits) of the 2007 Highland Agreement extension is deleted in its entirety.

2) The signatory employers will provide health benefits to all active employees as follows:

   a) Health benefits for employees at the signatory mines will be in accordance with the plan design summarized on Exhibit A of this Attachment which shows a comparison of the existing plan design to the modified plan design.

   b) Employees will be responsible for paying a portion of the cost of health care in the form of monthly premiums equal to 10% of the predicted average cost of health care under the plan. Separate premiums will be developed for the following coverage classifications: Employee Only; Employee + Spouse; Employee + Family. Such premium amounts will be withheld through direct pre-tax payroll deductions. The premiums will be determined through actuarial analysis and will be subject to change annually, increasing or decreasing, depending upon the actual plan experience as compared to the prior year's actuarial projections. The premiums for 2013 are as follows:

      i. Employee Only: $68.58
      ii. Employee + One: $140.48
      iii. Employee +Family: $213.00

      Employees with covered spouses who are enrolled in a medical insurance plan provided by their employer will receive a $50 per month premium discount

      Working spouses who do not enroll in a medical insurance plan available to them from their employer are not covered under this health care plan.

      The employer will provide a prescription drug benefit that includes availability to a large and sufficient enough range of medications to allow health care practitioners to prescribe appropriate medical treatment.

3) The Employer reserves the exclusive right to change or modify its health plan as follows:

   a) To adopt, change or modify managed care programs and/or cost containment programs that do not impose material additional costs or benefit reductions on plan participants, provided participants are provided thirty (30) days advance notice of such changes

   b) To change carriers or plan administrators or otherwise make changes to plan administration that do not impose material additional costs or benefit reductions on plan participants without prior notice

c) To require participants to enroll in or otherwise receive benefits from plans or programs currently available or that may become available during the term of this Agreement from the government or other public sources, provided participants are provided thirty (30) days advance notice of such changes

d) To amend or modify the level of benefits provided by the Plan, and/or to increase the cost participants are required to pay to receive benefits from the Plan on each anniversary date of the Agreement, if the per-beneficiary cost to the Employer of providing benefits under the Plan exceeds five (5) percent of the per-beneficiary cost to provide benefits under the Plan as of the effective date of the Agreement, provided however, that such changes shall not be greater than reasonably required to maintain the cost to the Employer at the per-beneficiary cost as of the effective date of the Agreement.

4) At least thirty (30) days prior to implementing changes to the Plan pursuant to paragraph 3(d) the Employer shall meet with representatives of the Union to review the Plan's experience, to share claims and cost data, and to discuss the changes proposed by the Employer. The Employer shall consider any proposals and recommendations offered by the Union to attain the cost reductions necessary to maintain the per-beneficiary cost at the level in effect on the effective date of the Agreement. After considering such proposals and recommendations, the Employer may, at its sole discretion, implement such changes as it deems necessary to maintain the per-beneficiary cost to the Employer of providing benefits under the Plan at the level in effect on the effective date of the Agreement.

5) If local, state or federal government, or any governmental agency, implements any program or law or regulation which makes available to any or all of the Employees of the Company any service, procedure or benefit (including health care coverage under Nation Health Care Reform Exchanges) that is also covered or provided under this health care plan, or any amended health care plan, then such Employee or beneficiaries or dependents may be required by the company to obtain such service, procedure or benefit from the government or agency and not from the Company, provided that the any additional cost incurred by the Employee as a result of the difference in cost charged for service or procedure or benefit itself (relative to the cost under this Plan) is reimbursed to Employee by the company. Prior to any such requirement, the Employer and the UMWA agree to meet and discuss implementation of any such requirement.

6) Active represented employees will not be eligible for any type of employer provided retiree health care program.

7) Should a dispute arise during the term of this Agreement concerning the interpretation or implementation of this Reservation of Rights clause, or any Employer action taken pursuant to this clause, such dispute shall be resolved by the U. S. District Court for the Eastern District of Virginia, and shall not be subject to arbitration or any dispute resolution process under the Agreement or the Plan.

Exhibit A

Medical Plan Design Summary		
	Current UMWA Represented Active Employee Plan Design	**Proposed UMWA Represented Active Employee Plan Design**
Coinsurance		
In-Network	0%	10%
Out-of-Network	10%	30%
Deductible		
Individual In Network	$0	$250
Family In Network	$0	$250 per person
Individual Out of Network	$0	$250
Family Out of Network	$0	$250 per person
Co-Pay		
Primary Care Physician In Network	$12	$20
Specialist In Network	$12	$35
Primary Care Physician Out of Network	$20	$20
Specialist Out of Network	$20	$50
Inpatient/Outpatient Services		
In-Network	0%	10%
Out-of-Network	10%	30%
Maximum Out-of-Pocket		
Individual In Network	$240	$2,000
Family In Network	$240	$4,000
Individual Out of Network	$1,600	$2,000
Family Out of Network	$1,600	$4,000
Other		
Hospital Pre-Cert Penalty	$300	$0
Hearing Care	One hearing aid per ear every 2 years if Medically Necessary	In-Network - 80% after deductible satisfied - 1 hearing aid per ear every 2 years
Prescription Drugs Retail (30 Day Supply)	**Employee Co-Pay**	**Employee Co-Pay**
Generic	$5	$5.00
Preferred Brand	$5	30% ($25, $50)
Non-preferred Brand	$5	50% ($75, $200)
Prescription Drugs Mail (90 Day Supply)	**Employee Co-Pay**	**Employee Co-Pay**
Generic	Free	$10.00
Preferred Brand	Free	30% ($50, $100)
Non-preferred Brand	Free	50% ($150, $400)

EXHIBIT "D" to
MOTION TO INTERVENE BY THE UMWA PLANS

TAB C

PROPOSED CHANGES TO COLLECTIVE
BARGAINING AGREEMENTS
BETWEEN THE
UNITED MINE WORKERS OF AMERICA
AND
GATEWAY EAGLE COAL COMPANY, LLC
FOR
GATEWAY EAGLE MINE
FARLEY EAGLE MINE
CAMPBELLS CREEK NO. 10 MINE
SUGAR MAPLE MINE

GATEWAY EAGLE COAL COMPANY PROPOSALS

Gateway Eagle Mine Collective Bargaining Agreement
Farley Eagle Mine Collective Bargaining Agreement
Campbells Creek No.10 Mine Collective Bargaining Agreement
Sugar Maple Mine Collective Bargaining Agreement

The provisions of Gateway Eagle Coal Company's current Collective Bargaining Agreements would continue unchanged, except as provided below.

Article IA. Scope and Coverage

1. Modify Section (g) (contracting and subcontracting) to provide that non-bargaining unit workers can be used to perform any and all work at closed operations.

Article III. Health and Safety

1. Modify Section (m) (safety equipment and protective clothing allowance) of the Gateway Eagle Agreement to provide that the employer may provide uniforms in lieu of an annual $290 clothing allowance.

Article IV. Wages and Hours

1. Eliminate all requirements for premium pay on Saturday, Sunday and holidays. Amend provision in this Article and elsewhere in the Agreement to conform to this change.
2. Modify current wage rates for the Gateway Eagle Mine only, as provided in Attachment 1. Sugar Maple, Campbells Creek No. 10 ("CC10"), and Farley Eagle wages maintain 2012 rates.
3. Section (c) authorizes the employer to introduce alternate work schedules only if agreed to by the local union. Revise to provide that the employer may, with seven (7) days notice, implement an alternative work schedule for the entire operation, a particular wage classification or individual employees. Absent seven (7) day notice, the current schedule at the operation will remain in place. Delete the requirement that local union must agree before the employer may implement an alternate work schedule.

Article VI. Shifts and Shift Differentials

1. Delete this Article, which requires Gateway Eagle mine Employees working on the afternoon shift be paid an extra $0.40 per hour, and that Employees on the midnight shift be paid an extra $0.50 per hour, and that Employees at the other Gateway mines be paid $0.50 and $0.60 in shift differentials.

Article VIII. Starting Time

1. Modify Section (a) to permit management to establish staggered starting times.
2. Clarify that Section (e) permits management to change any and all crews at the location where work is being performed.

Article IX. Allowances

1. Modify Section (e), which currently provides for five (5) personal or sick days per year at Gateway Eagle mine, and six (6) personal or sick days per year at the other Gateway mines, to provide for three (3) personal or sick days per year. Current language in the Gateway Eagle Mine Agreement that permits an employee to carry over personal or sick days into the next calendar year will be discontinued; days not used will be paid after the end of the year.

Article X. Wage Increase

1. Eliminate the January 1, 2013, Gateway Eagle mine $0.25 per hour wage increase.
2. Eliminate Gateway Eagle mine wage reopener in 2013 to set wages for 2014-2016.
3. Provide a $0.50 per hour wage increase to employees of Gateway Eagle mine effective on each of the following dates: January 1, 2015, January 1, 2016. January 1, 2017, and January 1, 2018.
4. Eliminate the Farley Eagle, Sugar Maple, and CC10 $1.00 per hour wage increase scheduled for January 1, 2013 and eliminate the Farley Eagle, Sugar Maple and CC10 $1.00 per hour wage increase scheduled for January 1, 2014
5. Decrease the Farley Eagle, Sugar Maple, and CC10 $1.00 per hour wage increase scheduled for January 1, 2015 to $0.50 per hour, and decrease the Farley Eagle, Sugar Maple, and CC10 $1.00 per hour wage increase scheduled for January 1, 2016 to $0.50 per hour.
6. Provide a $0.50 per hour wage increase to employees of Farley Eagle, Sugar Maple, and CC10 on January 1, 2017, and provide a $0.50 per hour wage increase to employees of Farley Eagle, Sugar Maple, and CC10 on January 1, 2018.

Article XII. Holidays

1. Modify Section (a) to provide for eight (8) holidays instead of the eleven (11) that are currently provided by eliminating the April 1, Veteran's Day and Employee's Birthday holidays.
2. Modify Sections (b) and (c) to provide that scheduled work on Saturday before a holiday is mandatory.
3. Modify Section (d) to provide that the employee shall be paid at his regular hourly rate, not triple time, for all hours worked if he or she works on a holiday. He or she will also receive Holiday Pay, if eligible.
4. Clarify Section (e) to provide that employee shall receive eight (8) hours pay at the regular straight time rate as Holiday Pay, provide the employee was not absent, unexcused, on the last scheduled shift prior to and the first scheduled shift following the holiday.

Article XIII. Regular Vacation

1. This Article provides for twelve (12) days of paid regular vacation. Modify to provide for ten (10) days of regular vacation per year with ten (10) days pay, earned on a pro rata basis from January 1 through December 21. Regular vacation days continue to be used during

vacation shut down periods as provided in the Gateway contracts.

2. The Agreements currently provide for four (4) floating vacation days. Modify to provide for two (2) floating vacation days.

Article XIV. Graduated Vacation

1. Revise Section (a), which currently provides Employees with at least five (5) years of employment with the Employer additional (graduated) days of vacation on a sliding scale of 1 to 14 days, to establish that after five (5) years of continuous employment with the Employer each Employee shall be entitled to five (5) graduated vacation days. Additional years of service will not result in additional graduated vacation days. If an Employee's hire date is before July l, the Employee will receive five (5) graduated vacation days at the beginning of the year in which the fifth anniversary of employment begins. If hire date is after June 30, the Employee will receive five (5) graduated vacation days at the beginning of the year which follows the fifth anniversary of employment. Days not used will be paid after the end of the year.

Article XIX. Health and Other Benefits

1. Modify Section (b) to amend the current health benefit plan as set forth in Attachment 2. Among other things, the revised plan will provide for:
   (i) 90/10 coverage (same coverage as the health care plan to be provided for Patriot's subsidiaries' salaried and non-union hourly employees), and
   (ii) a monthly pre-tax employee contributions toward the cost of health care, and
   (iii) non-coverage of spouses who do not enroll in available health care plans provided by their employer, and
   (iv) coordination of benefits for covered spouses who do enroll in available health care coverage provided by their employer, and
   (v) monthly premium reductions for employees with covered spouses who enroll in available health care coverage provided by their employer
2. Modify and amend the current health benefit plan to specify employer-provided coverage will continue for 30 calendar days after the date an employee is laid off, rather than the current twelve months of continuing coverage.
3. Modify Section (c) 401(k) plan in all Gateway Agreements to eliminate per hour contributions into the 401(k) plan, and require that the Employer make a contribution into each working miner's personal account in a company sponsored 401(k) plan, or, in the alternative, make such contributions to the UMWA Cash Deferred Savings Plan. The contribution shall be 6% of each dollar earned in wages for hours actually worked.

Miscellaneous

1. Modify Section (i) Attendance Control Program in Article XXII of the Gateway Eagle Agreement and Article XX of the other Agreements to provide that two unexcused absences in 30 calendar days, or three unexcused absences in 180 calendar days or 4 unexcused in 360 calendar days is just cause for discharge.
2. Delete the Memorial Periods provision in Article XXII of the Gateway Eagle Agreement and Article XX of the other Gateway Agreements, which grants the Union a right to

effectively shut down operations for up to ten (10) days during the term of the Agreement.

3. Modify Section (h) Finality of Settlements in Article XXIII of the Gateway Eagle Mine Agreement and Article XXI of the other Agreements to provide that the provisions of this Agreement supersede any settlements, arbitration decisions or other agreements that are in any manner inconsistent with or in conflict with the concepts, intentions and changes of this Agreement.
4. Clarify Section (b) Prior Practice and Custom in Article XXVI of the Gateway Eagle Mine Agreement and Article XXIV of the other Agreements to provide that this Agreement supersedes any prior practice or custom or local or district agreement that is in any manner inconsistent with or in conflict with the concepts, intensions and changes of this Agreement.
5. Make the termination date of the Agreement December 31, 2018.

Other

1. Modify all contract language as necessary and appropriate to be consistent with the concepts, intentions and changes set forth herein.
2. All unresolved grievances that assert violation of contractual provisions made void, modified or eliminated are withdrawn.
3. No grievances may be filed that claim violation of contractual provisions made void, modified or eliminated by this proposal.

ATTACHMENT 1
TO TAB C

Wage Rates

Reduce Underground at Deep Mine Standard Hourly Wage Rates at Gateway Eagle Mine to conform to 2012 Standard Hourly Wage Rates under the NBCWA. Standard Hourly Wage Rates at Farley Eagle, Campbells Creek No. 10, and Sugar Maple not be reduced and will remain at 2012 rates.

	Current Gateway Eagle 2012 Standard Hourly Wage Rate	Proposed Gateway Eagle 2012 Standard Hourly Wage Rate*
Grade 5	$28.165	$26.415
Grade 4	$27.760	$26.010
Grade 3	$27.393	$25.643
Grade 2	$27.170	$25.420
Grade 1	$27.098	$25.348
Training Rate	$26.524	$24.774

** Proposed 2012 Gateway Eagle Standard Hourly Wage Rate is the same as the current 2012 NBCWA Standard Hourly Wage Rate*

ATTACHMENT 2
TO TAB C

Healthcare Benefits for Active Employees

Health Care Plans under the 2011 and 2012 Gateway Agreements are modified to provide as follows:

1) Health benefits for employees at the signatory mines will be in accordance with the plan design summarized on Exhibit A of this Attachment which shows a comparison of the existing plan design to the modified plan design.

2) Employees will be responsible for paying a portion of the cost of health care in the form of monthly premiums equal to 10% of the predicted average cost of health care under the plan. Separate premiums will be developed for the following coverage classifications: Employee Only; Employee + One; Employee + Family. Such premium amounts will be withheld through direct pre-tax payroll deductions. The premiums will be determined through actuarial analysis and will be subject to change annually, increasing or decreasing, depending upon the actual plan experience as compared to the prior year's actuarial projections. The premiums for 2013 are as follows:

   i) Employee Only: $68.58
   ii) Employee + Spouse: $140.48
   iii) Employee + Family: $213.00

   Employees with covered spouses who are enrolled in a medical insurance plan provided by their employer will receive a $50 per month premium discount

   Working spouses who do not enroll in a medical insurance plan available to them from their employer are not covered under this health care plan.

   The employer will provide a prescription drug benefit that includes availability to a large and sufficient enough range of medications to allow health care practitioners to prescribe appropriate medical treatment

3) The Employer reserves the exclusive right to change or modify its health plan as follows:

   a) To adopt, change or modify managed care programs and/or cost containment programs that do not impose material additional costs or benefit reductions on plan participants, provided participants are provided thirty (30) days advance notice of such changes

   b) To change carriers or plan administrators or otherwise make changes to plan administration that do not impose material additional costs or benefit reductions on plan participants without prior notice

c) To require participants to enroll in or otherwise receive benefits from plans or programs currently available or that may become available during the term of this Agreement from the government or other public sources, provided participants are provided thirty (30) days advance notice of such changes

d) To amend or modify the level of benefits provided by the Plan, and/or to increase the cost participants are required to pay to receive benefits from the Plan on each anniversary date of the Agreement, if the per-beneficiary cost to the Employer of providing benefits under the Plan exceeds five (5) percent of the per-beneficiary cost to provide benefits under the Plan as of the effective date of the Agreement, provided however, that such changes shall not be greater than reasonably required to maintain the cost to the Employer at the per-beneficiary cost as of the effective date of the Agreement.

4) At least thirty (30) days prior to implementing changes to the Plan pursuant to paragraph 3(d) the Employer shall meet with representatives of the Union to review the Plan's experience, to share claims and cost data, and to discuss the changes proposed by the Employer. The Employer shall consider any proposals and recommendations offered by the Union to attain the cost reductions necessary to maintain the per-beneficiary cost at the level in effect on the effective date of the Agreement. After considering such proposals and recommendations, the Employer may, at its sole discretion, implement such changes as it deems necessary to maintain the per-beneficiary cost to the Employer of providing benefits under the Plan at the level in effect on the effective date of the Agreement.

5) If local, state or federal Government, or any governmental agency, implements any program or law or regulation which makes available to any or all of the Employees of the Company any service, procedure or benefit (including health care coverage under Nation Health Care Reform Exchanges) that is also covered or provided under this health care plan, or any amended health care plan, then such Employee or beneficiaries or dependents may be required by the company to obtain such service, procedure or benefit from the government or agency and not from the Company, provided that the any additional cost incurred by the Employee as a result of the difference in cost charged for service or procedure or benefit itself (relative to the cost under this Plan) is reimbursed to Employee by the company. Prior to any such requirement, the Employer and the UMWA agree to meet and discuss implementation of any such requirement.

6) Active represented employees will not be eligible for any type of employer provided retiree health care program.

7) Should a dispute arise during the term of this Agreement concerning the interpretation or implementation of this Reservation of Rights clause, or any Employer action taken pursuant to this clause, such dispute shall be resolved by the U. S. District Court for the Eastern District of Virginia, and shall not be subject to arbitration or any dispute resolution process under the Agreement or the Plan.

Exhibit A

Medical Plan Design Summary		
	Current UMWA Represented Active Employee Plan Design	**Proposed UMWA Represented Active Employee Plan Design**
Coinsurance		
In-Network	0%	10%
Out-of-Network	10%	30%
Deductible		
Individual In Network	$0	$250
Family In Network	$0	$250 per person
Individual Out of Network	$0	$250
Family Out of Network	$0	$250 per person
Co-Pay		
Primary Care Physician In Network	$12	$20
Specialist In Network	$12	$35
Primary Care Physician Out of Network	$20	$20
Specialist Out of Network	$20	$50
Inpatient/Outpatient Services		
In-Network	0%	10%
Out-of-Network	10%	30%
Maximum Out-of-Pocket		
Individual In Network	$240	$2,000
Family In Network	$240	$4,000
Individual Out of Network	$1,600	$2,000
Family Out of Network	$1,600	$4,000
Other		
Hospital Pre-Cert Penalty	$300	$0
Hearing Care	One hearing aid per ear every 2 years if Medically Necessary	In-Network - 80% after deductible satisfied - 1 hearing aid per ear every 2 years
Prescription Drugs Retail (30 Day Supply)	**Employee Co-Pay**	**Employee Co-Pay**
Generic	$5	$5.00
Preferred Brand	$5	30% ($25, $50)
Non-preferred Brand	$5	50% ($75, $200)
Prescription Drugs Mail (90 Day Supply)	**Employee Co-Pay**	**Employee Co-Pay**
Generic	Free	$10.00
Preferred Brand	Free	30% ($50, $100)
Non-preferred Brand	Free	50% ($150, $400)

EXHIBIT "D" to
MOTION TO INTERVENE BY THE UMWA PLANS

TAB D

PROPOSED CHANGES TO COAL WAGE AGREEMENTS
BETWEEN THE
UNITED MINE WORKERS OF AMERICA
AND
Colony Bay Coal Company
Mountain View Coal Company, LLC
Pine Ridge Coal Company, LLC
Rivers Edge Mining, Inc.

These companies have no employees. Accordingly, we propose that these coal wage agreements be terminated and that any pending or unsettled grievance is withdrawn and no future grievance may be filed that claims violation of a contractual provision that existed under these coal wage agreements.

To the extent any of these companies are subject to post-termination obligations, including, but not limited to, continuing health care obligations for laid off or retired employees, we propose those obligations be subject to the same modifications as set forth in the proposals under Tab A.

EXHIBIT 5

EXHIBIT "D" to
MOTION TO INTERVENE BY THE UMWA PLANS

SECTION 1114 PROPOSAL
November 15, 2012

As you know, on July 9, 2012, Patriot Coal Corporation and substantially all of its subsidiaries (collectively, "Patriot" or the "Debtors") each filed a petition under Chapter 11 of the Bankruptcy Code. As set forth in the attached letter, which provides important context for this proposal, Patriot took this step only after exhausting all other available options to increase efficiency, reduce costs, and seek additional sources of financing in response to the drop in coal demand and prices, increasingly adverse regulatory compliance requirements, and unsustainable wage, benefit, and retiree healthcare costs. Reorganization under Chapter 11, if successful, will allow us to avoid liquidation and maintain jobs and benefits for our thousands of employees and their families, as well as provide meaningful contributions toward the healthcare costs of retirees and their dependents. If implemented, the proposed modifications below, in combination with other restructuring initiatives, will give us the opportunity to successfully reorganize and emerge from bankruptcy.

As set out in detail below, Patriot intends to continue providing healthcare coverage for Coal Act retirees, and in addition would contribute $10 million to a trust, structured as a VEBA, to fund healthcare coverage for non-Coal Act retirees. The VEBA, which would also be funded by additional sources described below, could provide meaningful, long-term healthcare coverage for retirees and their families, while Patriot's retiree healthcare obligations would be restructured to a level the Company can afford. If market conditions improve in the future, the VEBA would benefit further from significant profit-sharing contributions.

Unfortunately, Patriot simply does not have the financial resources to support its current benefit levels and will not survive without substantial changes across its cost structure. While we very much regret that these changes are necessary, we hope and trust that the UMWA will work with us on a collaborative basis to achieve a successful reorganization. Failure to reorganize will almost surely lead to a devastating loss of jobs and healthcare coverage for more than 21,000 active workers, retirees and their dependents.

PROPOSED MODIFICATIONS

This Section 1114 Proposal is submitted by those Debtors listed on *Exhibit 1* (hereinafter, the "Obligor Companies") with responsibility for providing healthcare benefit programs to non-Coal Act UMWA represented retirees and their eligible dependents, including surviving spouses (collectively, "UMWA Retirees") pursuant to the Welfare Benefit Plans For UMWA Represented Employees Of Certain Patriot Subsidiaries Pursuant to Me Too Labor Agreements (the "NBCWA Plan").

1. As a threshold matter, Patriot's applicable subsidiaries currently expect to honor their obligations with respect to Coal Act retirees and beneficiaries. In 2012 alone, these

subsidiaries are projected to spend approximately $15 million for healthcare for this group of retirees.

2. The NBCWA Plan shall be amended effective April 1, 2013 (the "Plan Transition Date") to delete the existing provisions related to health benefit programs for the UMWA Retirees and to replace such provisions with language reflecting the transition of healthcare coverage for the UMWA Retirees as set forth below. The Obligor Companies will continue to honor valid healthcare charges for UMWA Retirees for services and treatment provided prior to the Plan Transition Date in accordance with their terms ("Unreported Charges"). It is estimated that the Obligor Companies' cash spend for Unreported Charges will exceed $16 million dollars.

3. Effective as of the Plan Transition Date, a "UMWA Retiree Healthcare Trust" (the "Trust") would be created. The Trust would be structured as a voluntary employees' beneficiary association ("VEBA"). The Trust would be established and administered by the UMWA Funds, and all decisions regarding the use of the funds in the VEBA as well as eligibility, administration, participation, program designs and benefit levels would be made by the UMWA Funds. If the UMWA Funds will not or cannot as a matter of law serve as the administrator of the Trust, the UMWA would perform this function. The Debtors shall not be responsible for administration of the Trust or any costs, claims, decisions, actions or omissions related thereto.

4. On and after the Plan Transition Date and subject to Court approval, the Obligor Companies would contribute a total of $10 million in cash to the Trust in such amounts and on such dates as are specified in *Exhibit 2* (collectively, the "Initial Funding Contributions") to provide funding to the Trust. The Trust would be the exclusive vehicle to fund all healthcare costs incurred by UMWA Retirees on or after the Plan Transition Date. The proposed Initial Funding Contributions will be reduced if the Plan Transition Date is delayed. Except for the Initial Funding Contributions and any Profit Sharing Contributions payable as provided in paragraph 8 below, or as otherwise specifically provided in paragraph 2 with respect to Unreported Charges, the Debtors shall have no liabilities with respect to the UMWA Retirees and/or the Trust, including, but not limited to, liabilities associated with the Peabody-Assumed Group (as defined below).

5. An additional source of funding for the Trust would include a future distribution in the form of an allowed unsecured claim against Patriot's estate in an amount to be calculated and negotiated, which could potentially take the form of equity in an emerging enterprise pursuant to a court-approved plan of reorganization. VEBA trusts have been used successfully in a number of prior reorganizations, with unions choosing to monetize their equity stakes to provide a significant and secure source of funds to pay for future retiree health benefits.

Section 1114 Proposal
November 15, 2012

6. To the extent that at any time Peabody Energy Corporation or its affiliates (collectively, "Peabody") takes the position that it is no longer obligated to continue to make healthcare payments for those UMWA Retirees whose healthcare liabilities Peabody assumed in connection with Patriot's spin-off (the "Peabody-Assumed Group"), the Obligor Companies would work with the Union to pursue contributions to the Trust on account of the Peabody-Assumed Group. Such payments would be made directly to the Trust in an amount commensurate with current contribution levels and expected increases. Peabody's payments on behalf of the Peabody-Assumed Group in 2012 are projected to be approximately $20 million. The Trust would decide how to allocate funds, if any, received from Peabody. For the avoidance of doubt, this Proposal is not conditioned on Peabody's consent or to any commitment by Peabody to continue to provide funding with respect to the Peabody-Assumed Group or otherwise.

7. We also believe additional steps can be taken by the UMWA to achieve substantial savings that will assist the UMWA Funds in managing the finances of the Trust. These steps include the following:

    a. Restructure existing benefit plan designs to align more closely with healthcare coverage offered by many U. S. companies. While we recognize many in this group have become accustomed to the level of benefits they currently receive, the existing plan provides an unsustainable high-cost level of coverage that does not promote the efficient and reasonable use of healthcare benefits. To that point, the NBCWA Plan is projected to qualify as a "Cadillac Plan" under the Patient Protection and Affordable Care Act ("PPACA"), which would be subject to federal government excise taxes beginning in 2018. Institution of mainstream cost containment solutions similar to those we unsuccessfully attempted to introduce in prior discussions with the UMWA and those contained in the PPACA, will help achieve necessary and reasonable savings while still providing a very good healthcare benefit.

    b. Utilization of the UMWA Funds' buying power to obtain greater healthcare cost discounts. As you are aware, we previously explored opportunities to have the Funds administer the UMWA retiree healthcare benefits for the Obligor Companies' UMWA retirees, which were projected to generate annual savings of $12-15 million. Unfortunately, those cooperative efforts between the UMWA and the Obligor Companies were rejected by one of the settlors, the Bituminous Coal Operators' Association.

    c. Medicare eligible UMWA Retirees are eligible for cost efficient programs, such as Medicare Advantage, that exist to supplement the benefits these individuals are eligible to receive through government sponsored healthcare programs.

d. Effective January 1, 2014, as a result of PPACA, there will be a host of additional healthcare options available for Pre-Medicare UMWA Retirees, including healthcare exchanges that are expected to enable the Trust to provide high quality healthcare benefits at lower costs.

8. The Obligor Companies would agree to create a profit sharing mechanism as an additional funding source for the VEBA. Under this arrangement, the Obligor Companies would agree to contribute to the VEBA an amount equal to 10% of net income earned by Patriot above $75 million in 2015 and an amount equal to 10% of net income earned by Patriot above $150 million in 2016 and subsequent years (hereinafter, "Profit Sharing Contributions"). Any such contribution would not exceed $20 million annually, and the total of all such Profit Sharing Contributions would be capped at $200 million in the aggregate. In addition, any such payment by the Obligor Companies would only be due and payable if Patriot's liquidity exceeds the greater of $125 million or 125% of its then applicable minimum liquidity requirements in its debt covenants (after taking the amount of any such payment into account). For purposes of this computation, net income would exclude any non-cash, non-recurring, or extraordinary gains. Any Profit Sharing Contributions made with respect to a calendar year shall be calculated and paid to the VEBA within 120 days following the end of such calendar year.

9. Any and all disputes concerning the UMWA Retirees and/or the Trust, including, but not limited to, the establishment, meaning, interpretation and application of the Trust and related agreements shall be decided by the Bankruptcy Court so long as the Bankruptcy Court maintains jurisdiction over such matters. In the event a dispute arises after the Debtors emerge from Chapter 11, and the Bankruptcy Court no longer retains jurisdiction over the dispute, the United States District Court for the Eastern District of Missouri shall be the sole and exclusive jurisdiction for the filing of any such matter. All disputes concerning administration of the UMWA Retiree Healthcare Trust, including, but not limited to, issues of eligibility, plan design, benefit levels, coverage, payment or denial of benefits, and rules and requirements established by the Trustees or the Plan Administrator regarding any aspect of the Trust's operation shall be resolved in accordance with the resolution of disputes process established by the trustees of the Trust.

Section 1114 Proposal
November 15, 2012

EXHIBIT 1

List all Obligor Companies

Apogee Coal Company, LLC

Colony Bay Coal Company

Dakota LLC

Eastern Associated Coal, LLC

Heritage Coal Company, LLC

Highland Mining Company, LLC

Hobet Mining, LLC

Martinka Coal Company, LLC

Mountain View Coal Company, LLC

Pine Ridge Coal Company, LLC

Rivers Edge Mining, Inc.

Yankeetown Dock, LLC

Section 1114 Proposal
November 15, 2012

EXHIBIT 2

Initial Funding Contributions

April 1, 2013	$1,000,000
May 1, 2013	$2,000,000
June 1, 2013	$3,000,000
July 1, 2013	$4,000,000

EXHIBIT "D" to
MOTION TO INTERVENE BY THE UMWA PLANS